

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.**

**CRM-A No.1993-MA of 2016 (O&M)**

**Date of Decision: August 22, 2019.**

Murti Devi

**.....APPLICANT (s)**

**VERSUS**

Virender and others

**.....RESPONDENT(s)**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Sanjeev Kumar, Advocate  
for the applicant-complainant.

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**SURINDER GUPTA, J.(Oral)**

Applicant-complainant seeks grant of leave to appeal against judgment of acquittal dated 30.08.2016 passed by Additional Sessions Judge, Gurgaon, whereby the respondents were acquitted in the complaint filed by the applicant for the offence punishable under Sections 148, 149, 506 of Indian Penal Code(for short-IPC) and Section 3 (1)(v) and 3 (1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (later referred to as 'SC/ST Act').

Case of the complainant, in brief, is that she has House No.105 in Gali No.1, Nitin Vihar Naharpur Roopa and there were two plots of complainant each measuring 125 square yards ahead of her house. On the western side of her house, there is a 20 feet wide passage. Virender-respondent No.1 has a plot in rectangle No.14 Killa No.6/2/1/2(1-11) near the house of complainant. On 14.03.2007, accused Nos.1 to 5 accompanied

by 20-25 people came in front of the house of the complainant and started raising construction on common passage. On her resistance, respondents addressed her with the words "*Chamar and Dedhni*". They claimed that the passage belong to the Government and threatened to kill her. Respondent Virender claimed himself to be Secretary in District Congress and alleged that he has links with highups. Due to blockage of her passage, complainant could not reach her plot/house. She clicked the photographs of the site and sent to the Commissioner of Police with a complaint. On her complaint, Tehsildar directed Kanungo to conduct demarcation, who reported that respondents No.1 to 5 have encroached upon Gali in front of plot of complainant to the extent of 70 square yards.

In support of her case, complainant herself appeared as PW1 and examined Rajinder as PW2, Mahender as PW3, Smt. Kavita Clerk as PW4, Constable Rahis Khan as PW5, Sh. Ganga Ram as PW6 and also relied on certain documents produced on file.

Learned trial Court dismissed the complaint with the observation that complainant has not produced any evidence to show that she is owner or in possession of any house and plot. Her application seeking the relief of injunction was also dismissed by the Civil Court. The report of Sadar Kanungo was rejected by learned trial Court with the observations that he had not prepared any plan and at the time of demarcation, he has not affixed any pucca point or given any notice to the respondent. Offence punishable under Section 148 IPC was not found to be proved as the respondents were not armed with any weapon at the time of alleged occurrence and the alleged threat to the complainant was also not

Learned counsel for the applicant-complainant has not seriously challenged the finding of learned trial Court that offences punishable under Sections 148 and 506 IPC are not proved.

The other offences alleged by the applicant-complainant are under Sections 3(1)(v) and 3(1)(x) of SC/ST Act. The provisions of offence punishable under Section 3(1)(v) of SC/ST Act are not attracted in this case as it is nowhere case of applicant that she was wrongfully dispossessed from her land or premises. The existence of passage alleged to have been encroached was not proved, as such, applicant also failed to prove that the respondents have interfered in the enjoyment of her right over the house of which she failed to prove any title. The casteist words allegedly spoken have not been specifically attributed to any of the respondents. The general attribution has been made without stating that as to which respondent has addressed these words to her. It is a vague and non-specific allegation, as such, offence under Section 3 (1)(x) of SC/ST Act is also not disclosed.

It appears that civil dispute is pending between the parties, where the applicant-complainant is trying to prove the existence of passage and title of her house and plot. This complaint appears to have been filed by giving colour of criminal dispute to a civil dispute. Learned trial Court on appreciation of evidence, has committed no error while recording the finding that the offences punishable under Sections 148, 149, 506 IPC and 3 (1)(v) and 3(1)(x) of SC/ST Act are not proved against the respondents-accused.

In view of the above observations, I find no reason to allow the

to appeal.

Dismissed.

August 22, 2019.  
*Sachin M.*

( SURINDER GUPTA )  
JUDGE

*Whether speaking/reasoned:*

*Yes/No*

*Whether Reportable:*

*Yes/No*