

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2592-MA-2018(O&M)

Date of decision: 03.12. 2019

Suresh Kumar

.....Appellant

Versus

Jaipal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Ranvir S Chauhan, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

Special leave to appeal has been sought against the judgment of acquittal passed by learned Trial Court. On 15.1.2019 following order was passed:-

“The appellant had filed a private complaint against the respondents alleging that they had taken unauthorized possession of land belonging to him. The complaint has been dismissed leading to acquittal of the respondents and hence, the present leave to appeal has been filed.

Learned counsel for the appellant submits that the witnesses of the respondents have consistently stated that the land in question had been lying vacant/uncultivated for the past 7 to 12 years. The land was declared surplus sometimes in the year 1959 and was

allotted to the father of the appellant vide allotment letter dated 18.1.1977. Thus, it is apparent that the land in dispute had vested in the State of Haryana and the respondents started cultivating it unlawfully because it was lying vacant and this amounts to taking unauthorized possession of Government land. On being asked regarding the offence committed by such act, counsel for the appellant submits that Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been violated. However, no evidence has been pointed out to show that the appellant or his predecessor was ever in actual physical possession of the cultivating land in dispute. For an offence under Section 3 of the aforementioned Act, it is essential that the accused persons should have physically dispossessed a scheduled caste/scheduled tribe person and thus, it is essential to establish by evidence that the appellant or his predecessor-in-interest had been in actual physical cultivating possession before possession was taken by the accused/respondent.

Learned counsel for the appellant prays for time to argue the case.

Adjourned to 2.5.2019.”

Learned counsel for the appellant failed to establish that appellant-complainant was in possession and was illegally dispossessed.

dispossession.

Learned Magistrate has found that accused are sitting as tenants on the land and therefore, no offence punishable under Section 3(1)(iv) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out. Learned Special Judge, Rohtak has drawn a reasonable and probable view on appreciation of evidence which is not shown to be suffering from any substantive error or perversity.

Hence, dismissed.

03.12. 2019	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No