

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 4945 of 2016

Date of Decision: 03.10.2019

State of U.T. Chandigarh

...Petitioner

VERSUS

Lajpal Singh Bains

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Sudha Singh, Advocate
for Kr. Yashwant Singh Rathore, Advocate
Addl. P.P., UT, Chandigarh.

Mr. S.S. Swaich, Advocate
for the respondent.

SURINDER GUPTA, J.(Oral)

Heard.

In the FIR got registered on the complaint of Regan Kumar, the police presented challan against accused, namely, Lajpal Singh Bains, Hirdaipal Kaur and Charanjit Singh. As per version in the FIR, Lajpal Singh Bains had made a call on landline number (0172-2604620) of complainant and used casteist language against him. After five minutes remaining two accused came there and abused the complainant. Learned trial Court while framing charge took note of allegations and observed in para 8 of its order, copy of which has been attached with the petition, as follows:-

“8. A perusal of the complaint in the light of above provision reveals that the complainant has alleged that he was abused in name of caste by Lajpal Singh Bains on phone. After 5 minutes, Hirdaipal Kaur accompanied by Charanjit Singh and one more person came in the premises of office and threatened to kill him. She abused him in the name of his caste and Charanjit Singh

*also abused him in the name of his caste in the presence of his colleagues. From the perusal of complaint, it is made out that the allegations against the accused Lajpal Singh Bains are relating to the words said on the telephone and those cannot be said in public view. Therefore, no offence is made out against him. However, the complainant and the witnesses namely, Lakhwinder Kaur and Raj Kumar tried to improve the version in the statements under Section 161 Cr.P.C. by saying that Lajpal Singh called the complainant on phone. He switched on the speaker of the phone and Lakhwinder Kaur and Raj Kumar came into the picture. As per statement of complainant u/s 161 Cr.P.C., when Hirdiapal Kaur and Charanjit Singh were uttering the words, then Lakhwinder Kaur and Raj Kumar came to his side. It shows that when there was a telephonic conversation between complainant and Lajpal Singh, nobody was there and the story regarding switching on the speaker of the phone is improved lateron. Therefore, the version of the witnesses is contrary to the complaint i.e. first version given by the complainant, therefore, it cannot be relied upon and is just an after-thought. As such, the accused Lajpal Singh cannot be charge-sheeted in the present matter as the offence is not made out against him. Reliance in this regard can be made on the law laid down by Hon'ble Punjab & Haryana High Court in case titled as **Dr. Onkar Chander Jagpal and anr. Vs. Union Territory, Chandigarh and anr., 2012 (1) RCR (Criminal) 931** and **V.K. Aggarwal Vs. Jasjit Singh, 2007 (4) Recent Criminal Reports 242**. The law laid down by Hon'ble Supreme Court in the case titled as **Ajay Kumar Ghose vs. State of Jharkhand and anr., 2009 (4) R.A.J. 73** as produced by ld. counsel for complainant is not applicable on the facts and circumstances of the present case upto the above-said*

extent i.e. qua accused Lajpal Singh.

Learned counsel appearing for U.T. Chandigarh has argued that it is for the Court to determine on the basis of evidence as to whether speaker of phone was switched on and witnesses cited by the complainant in his supplementary statement were present and heard the conversation.

Learned trial Court while framing charge has taken note of the fact that in the FIR, complainant has nowhere stated that conversation took place in the presence of Lakhwinder Kumar and Raj Kumar; and secondly, both the aforesaid witnesses came to the spot, when Hirdaipal Kaur and Charanjit Singh were abusing him.

During course of arguments, this fact has not been challenged or disputed by learned counsel for Union Territory, Chandigarh that observations of learned trial Court are based on final report submitted by police, as such, no reason for interference in this revision petition is made.

This petition has no merit and the same is dismissed.

October 03, 2019

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No