

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-1461-MA of 2017 (O&M)
Date of Decision: 3rd August, 2022

Ram Asra

Applicant.

Versus

Hardeep Singh and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S. K. Bawa, Advocate for the applicant.

AVNEESH JHINGAN, J (Oral):

This is an application seeking leave to appeal against acquittal of the respondents in SC-308 of 2016, titled as “Ram Asra v. Hardeep Singh and another” in a complaint under Sections 323, 341, 506 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The complaint was filed against Hardeep Singh and Parminder Singh (respondents) by Ram Asra. As per the allegations, on 2.11.2014 the complainant along with his wife were present at home, when the respondents along with 4-5 unknown persons were abusing them. Caste based remarks were uttered. Parminder Singh caught hold of the complainant from the neck and Hardeep Singh slapped the complainant. The wife of the complainant raised hue and cry, Jaswinder Kaur and others rescued the complainant from the clutches of the respondents.

In the preliminary evidence, the applicant himself deposed, examined his wife and Jaswinder Kaur.

The respondents denied the incident.

The trial court noted that there was no specific allegation against a particular accused for having used derogatory language against the caste of the complainant. The allegations were general in nature that the accused made caste based remarks. There was contradiction between the allegations made in the complaint and the deposition of the complainant. CW3- Jaswinder Kaur was not an eye witness to the incident. It was revealed that she came to the spot after the wife of the complainant raised hue and cry when the complainant was slapped. The alleged caste based remarks were made earlier to the slapping incident. The evidence was found to be hear-say.

As per the case set up by the applicant, he made a report to the police about the incident but no such application was produced. Wife of the applicant in her cross-examination stated that no complaint was made by her or her husband to the police on or after the alleged incident. Having failed to discharge the onus casted upon the prosecution, the respondents were acquitted.

Learned counsel for the applicant submits that there were specific allegations in the complaint with regard to the use of caste based remarks. The respondents were aware that the complainant belonged to SC/ST category. It is argued that as per the allegations, the applicant was slapped and no medico-legal report was required to be produced.

The mere allegations made in the complaint in itself would not be enough. The onus is on the prosecution to prove its case. In the present case, the deposition of the wife of the applicant and Jaswinder Kaur was not

found reliable. There is no doubt that for the allegation of slapping, medico-legal report is not required, but it would be appropriate to note at this stage that no evidence was produced to substantiate the allegation that the applicant was slapped by Hardeep Singh.

No case is made out for interference in the impugned judgment, as no legal or factual error was ever raised before the trial court.

The application is dismissed.

Since the main application for grant of leave to appeal is dismissed on merits, the pending applications, if any, are rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

3rd August, 2022
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1. Whether speaking/ reasoned

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Yes / No
2. Whether reportable

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Yes / No