

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(230)

CRM-A-1767-MA-2015(O&M)

Date of Decision: 09.05.2022

Geeta Devi

--Applicant/Appellant

Versus

Shiv Kumar & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.S. Kaliramna, Advocate for
the applicant-appellant.

RAJESH BHARDWAJ.J (Oral)

The applicant-appellant has filed the present application under Section 378(4) Cr.P.C for granting special leave to file the criminal appeal against the judgement of acquittal dated 14.8.2014, passed by learned Addl. Sessions Judge, Gurgaon.

As per facts of the case, the appellant-complainant Geeta Devi was a household lady. She belonged to Scheduled Caste community and her husband was employed in Assam. On 27.9.2011 at about 12:30 PM all the accused persons came to her house and started abusing her. Accused Rajbir and Shiv Kumar called her 'Chamari & Dhedni' and also threatened to kill her on the flow of dirty water which passes by the house of the complainant. The accused did not listen to her explanations and Urmila @ Nirmala and Shakuntala caught hold of her and gave slaps to her. On her resistance she was again given castist abuses and threats. On 17.3.2013 at about 6:30 PM when the complainant was removing the dumped material from the dirty water course, which was dumped by the accused persons with a view to cause stinking smell in her house, she told Satish and Om Parkash that she would narrate the entire incident to her husband as the accused have conspired with one another. However, she was given beatings by the

accused. She visited the police station for registration of FIR but no action was taken, hence, she filed the complaint.

During the course of trial, complainant examined herself as PW-1, Satbir Singh as PW-2 and Chander Pal as PW-3. After examination of the witnesses the statements of the accused under section 313 Cr.P.C were recorded to which they denied the allegations made against them. Thereafter, the accused examined six witnesses i.e. DW-1 to DW-6. On the conclusion of the evidence from both the sides and after hearing the arguments advanced by counsel for both the sides, the Trial Court acquitted all the accused from the charges vide judgement dated 14.8.2015.

Learned counsel for the appellant vehemently contends that the Trial Court has misread the evidence on record. He submits that there were specific allegations against the accused persons of beating the complainant and exhorting the abusive language constituting the offence under the Atrocities Act. He submits that the complainant-appellant was examined as PW-1 and supported the case of the prosecution and the rest of the witnesses also supported, however, learned Trial Court has failed to appreciate the evidence on record judiciously and thus drawn a wrong conclusion.

I have heard learned counsel for the appellant-complainant at length and have gone through the case file carefully.

The learned Trial Court has appreciated the evidence on record threadbare. The appellant-complainant was examined as PW-1. It was found in her cross-examination that she denied having filed any complaint to the Commissioner of Police and the same was put as Mark D-1. Learned Trial Court has specifically observed that the A.C.P vide his inquiry report dated 16.11.2011 had observed that in the complaint of Geeta Devi wife of

Suraj Bhan it was found that she told in the village regarding the daughter of Rajbir that she had run away. On that, Shakuntala and Urmila of the respondent party told the complainant not to make such kind of statement due to which the altercation took place. During the inquiry, it was found that neither the respondents gave beating nor uttered any caste related words to the complainant. A close scrutiny of depositions of PW-1 and PW-3 would show that the same suffered from material contradictions and thus failed to corroborate the allegations made by the complainant-appellant.

On the other hand, the witnesses produced by the defence were found to be more trust worthy. In the complaint filed regarding the incident of 27.9.2011 it was alleged that on being attacked by the accused Lala and Prem reached the place of occurrence and stopped them, however, both these persons were not examined by the complainant-appellant in support of her version. On the other hand, Satbir and Chander Pal, who were not the witnesses to occurrence were examined.

As per the law settled, the appeal against acquittal rests on a different pedestal than appeal against conviction. As per the criminal jurisprudence an accused is presumed to be innocent until proved guilty but once he is acquitted by the court, there lies double the presumption of innocence in his favour. The Appellate Court can interfere in a case against acquittal in case there is any perversity in the findings arrived at. However, if there are two views possible, then, the one favouring the accused should be adopted because in absence of any perversity in the findings arrived at by the Trial Court the Appellate Court should refrain from substituting its own opinion. In this regard, reference can be made to the judgement of Hon'ble Supreme Court passed in *Shivaji Chintappa Patil Vs. State of*

Maharashtra, (2021) 5 SCC 626.

Keeping in view the law settled by Hon'ble the Apex Court time and again, this Court finds no perversity in the findings arrived at by the learned Trial Court. Hence, the prayer for granting special leave to file the criminal appeal under Section 378(4) Cr.P.C, is declined.

09.05.2022

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**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No