

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226

CRM-A-393-MA-2017

Date of Decision: 30.08.2022

Davinder Pal

... Applicant

VS.

Kulwinder Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Subhash Kumar, Advocate for the applicant

Sandeep Moudgil, J. (Oral)

This application for leave to appeal has been filed by applicant against acquittal of the respondent, vide judgment dated 16.01.2017 passed by the learned Additional Sessions Judge, Jalandhar (for short, 'the trial court') in a complaint filed by the applicant/complainant under Sections 504/506 IPC and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the applicant submits that the applicant belongs to the Scheduled Caste community and the accused belongs to Jat Sikh community. They both were doing the business of purchase and sale of potatoes on commission basis. The applicant/complainant alleged that during the year 2013, they purchased potatoes from the market and later sold 8649 bags of potatoes. The applicant/complainant alleged that the respondent did not render the accounts at the end of the season and kept delaying settlement of the accounts on one pretext or the other. On 29.07.2013, the respondent called him to his cold store in village Lallian. When the applicant/complainant reached there to settle the accounts, the respondent

started abusing him and made specific allegations against his caste by uttering the following words:-

*“KUTEYA CHURIYA TU VAPAAR KI KARAN LAG PIYA TU
TA MERE PICHHE HI PAI GIYA TU ITHO DOR JA ME TERA
KOYI HISAB NAI KARNA”*

The applicant alleged that the respondent also threatened him that if he again talked about the settlement of the accounts, then he will be eliminated. It is alleged that the said words were heard by Sukhwinder Singh and Sukhraj Singh, who had accompanied him to the cold store. A complaint was filed before the trial court which has been dismissed vide the impugned judgment dated 16.01.2017.

I have heard learned counsel for the applicant and gone through the record and am of the considered view that this application cannot be entertained.

In order to adjudicate the issue, the learned trial court framed following two issues for determination:-

1. Whether the complainant succeeded in proving beyond doubt the commission of offence under Section 3 (1) (x) of the Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Act, 1989 by the accused?
2. Whether the complainant succeeded in proving commission of offences under Section 504, 506 of IPC by the accused?

Learned trial court rightly decided point No.1 against the applicant/complainant on the ground that (i) the testimonies of PW2 and PW3, who were interested witnesses, cannot be believed; (ii) there was no

mention in his complaints regarding the presence of eye witnesses at the spot; (iii) nor the name of the eye witnesses was mentioned in the second complaint also. As such the trial court has rightly observed that the sole version of the applicant/complainant is not sufficient to believe that any casteist remarks were made by the respondent with an intention to humiliate and insult the applicant, and therefore, the requirement of law that the derogatory words should be stated in public view at public place is not made out in this case. The alleged occurrence took place in the cold store of the respondent on 29.07.2013. The applicant claims to have reported the matter to the police, however, he has failed to produce any application in regard thereto and has only proved application Ex.P1 moved by the applicant on 26.08.2013 which shows that the applicant did not immediately approach the police nor he approached the Court.

As regards, point No.2, the trial court observed that no allegation or evidence to make out offence under Section 504 IPC has been made to prove that defamatory words were uttered by the respondent with an intention or knowledge that the provocation of which will result in breach of peace. Offence under Section 506 IPC was also not proved as there was clear discrepancy in the statements of the applicant/complainant (PW1) vis-à-vis eye witnesses regarding the words and acts attributed to the respondent. Resultantly, point No.2 was also determined against the applicant/complainant.

In view of the above discussion, I do not find any illegality in the judgment passed by the learned trial court.

Accordingly, the application for leave to appeal is hereby dismissed.

30.08.2022

V.Vishal

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No