

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-A-2420-2019 (O&M)
Date of decision: 03.05.2023

Lakhbir Singh

....Applicant

Versus

Manjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rishu Mahajan, Advocate
for the applicant

AMAN CHAUDHARY. J.

CRM-33837-2019

For the reasons stated in the application, the same is allowed. Delay of 39 days is hereby condoned.

CRM-A-2420-2019

1. The present application for leave to appeal has been filed against the impugned judgment passed by the learned Additional Sessions Judge, Amritsar dated 05.01.2019, whereby, the accused-respondents were acquitted in a criminal complaint dated 18.03.2016, filed against them, under Section 3(x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 341, 323, 506 IPC.

2. Briefly, the facts of the case are that the one Lakhbir Singh made a complaint dated 18.03.2016 before the Illaqa Magistrate stating therein that he alongwith Manjit Singh, Chanpreet Singh, Sukhchain Singh and others were a part of a committee of 20 members. The respondents had refused to give their share in

the committee, when demanded by the petitioner, rather they abused and threatened to kill him. When the complainant was waiting at bus stand Kohali, on 06.03.2016, at about 11.00 AM, the accused persons came and while using derogatory words against his caste had beaten him up. Upon seeing the public, they fled the spot. The accused-respondents were summoned to face the trial.

3. To prove his case, the complainant examined himself, as PW-1 and one Rajdavinder Singh as PW-2. Thereafter the statements of the accused-respondents were recorded under Section 313 Cr.P.C., where all incriminating evidence was put to them, which they denied. They pleaded innocence and claimed false implication.

4. On scrutinising the evidence and hearing the learned counsel for the parties, the learned trial Court acquitted the accused-respondents.

5. Hence, the present application is for leave to appeal.

6. Learned counsel contends that the learned trial Court has committed an error by acquitting the accused-respondent. The testimony of prosecution witnesses, including that of the eye-witness was sufficient to prove the guilt of the accused-respondent.

7. Heard and perused the case file.

8. It would be worthwhile to make a reference to the impugned judgment passed by the lower Court, which reads thus:

“24. It means, Ravail Singh son of Ajit Singh and Jaspal Singh son of Ajit Singh were the eye witnesses of the occurrence and only they could depose in support of the complainant. However, neither Ravail Singh son of Ajit Singh nor Jaspal Singh son of Ajit Singh were examined. Rather, by making improvement in his version, he has named one Rajdavinder Singh son of Gurmej Singh as witness. However, improved part of version cannot be read in evidence. In case, his evidence is not read, then

there is left only solitary statement of complainant on the record and the same is also doubtful. Therefore, it will not be safe to rely upon the solitary statement of complainant and to convict the accused. Otherwise also, presence of Rajdawinder Singh at spot is also doubtful as in his cross-examination, in last line of first para, he said he cannot tell the name of any resident of village Bara except Shamsheer Singh etc. He did not visit the house of accused nor he knows about the family members. It means, except Shamsheer Singh sarpanch of village Barar, he does not know any other resident of village Barar. So, it was for the witness to prove from where, he came to know the names of the accused. However, he has not explained.

25. Moreover, at second last page of his cross-examination, in seventh line from below he said, he got recorded in his statement in court dated 15.09.2018 that his motorcycle got punctured, so, he stopped at village Kohali. However, when his attention was drawn towards his statement, this fact was not found so recorded. It means, he has also made improvement in his statement recorded in the Sessions Court in this regard that he stopped at Bus Stand Kohall and the improved part of statement cannot be read in evidence. So, in this way, this witness has failed to prove his presence at the place of occurrence. Had he been present at the place of occurrence, he would have certainly accompany the complainant to the Police Station. However. In his cross-examination on second last page said, he did not go alongwith Lakhbir Singh to Police Station. It means, he is not the eye witness and his presence has been shown only to support the version of of complainant. Therefore, his statement is not reliable and believable.

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27. So, all these facts and circumstances, if taken together creates doubt about the story of prosecution. As such, it will not be safe to place reliance upon the solitary statement of complainant without its corroboration by any independent witness. Since, the case of the prosecution complainant is doubtful and the benefit of doubt has to go the accused, so, by giving the benefit of doubt, accused Manjir Singh Chanpreet Singh and Sukhchain Singh are acquitted of charges framed against them. The file be consigned to the record room.”

9. Hon’ble The Supreme Court in **Jafarudheen vs. State of Kerala**,

(2022) 8 SCC 440, had held that, “While dealing with an appeal against acquittal

by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

10. Nothing has been pointed out by the learned counsel for the complainant to show any glaring defect in the procedure or that a patent error has been committed in ignorance of law by the trial Court, which has resulted in flagrant miscarriage of justice. There was not even an iota of evidence present on record which would warrant the conviction of the respondents. Thus, from a close scrutiny of the case, this Court finds that no other view is possible.

11. In light of the above, there being no perversity or illegality in the impugned judgment passed by the trial Court whereby the respondents have been acquitted, the present application for leave to appeal is hereby dismissed being bereft of merit.

(AMAN CHAUDHARY)
JUDGE

03.05.2023
Mehak

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No