

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

**CRM-A-172-2021
Date of Decision:- 20.03.2023**

State of Haryana	vs.	...Applicant
Virender @ Chetu		...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ramesh Kumar Ambavta, AAG Haryana for the applicant.

HARKESH MANUJA, J.

CRM-28881-2021

This is an application seeking condonation of delay of 56 days in filing the application for leave to appeal.

For the reasons mentioned in the application, which is supported by an affidavit, sufficient cause has been shown for condoning the delay on account of procedural formalities, thus, the same is allowed and delay of 56 days in filing the application for leave to appeal is condoned.

MAIN CASE

By way of present application filed under Section 378(3) Cr.P.C., applicant prays for grant of leave to appeal against judgment dated 31.10.2019 passed by the Court of Ld. Additional Sessions Judge, Jhajjar in FIR No. 166 dated 14.03.2018 u/s 323, 325, 341, 505 of IPC and Section 3 of SC/ST Act registered at P.S. Sadar Bahadurgarh, whereby the accused has been acquitted of the charges framed against him.

Brief facts of the case are that complainant Surrender vide his application dated 14.03.2018, informed the police that he is resident of village Kharman and for earning his livelihood he is running a three-wheeler. Chetu son of Narveer Singh, who is also resident of village Kharman, is also having Tata Magic bearing No. DL-1LM-3111. Chetu used to park his vehicle in front of the house of complainant. The complainant asked Chetu not to park his vehicle in front of complainant's house. On 13.03.2018, complainant with passengers in three-wheeler started from village Dulhera to village Kharman. At about 11:30 p.m. when complainant reached R.B. School, Kharman; Chetu with his Tata Magic was standing there. Chetu asked the complainant to stop three-wheeler and stated to the complainant "(Chamar, Kamine) how you can stop me from parking my vehicle in front of your house; You have no social standing in this regard. Thereafter, Virender @ Chetu took out iron rod from his Tata Magic and started beating him. On account of which complainant suffered injuries on his hands and legs. After inflicting injuries Virender again stated "Dekh today I am leaving you, if in future you ask me not to park the vehicle then I would kill you." Subsequently, accused along with his vehicle and iron rod fled away from the spot. The complainant came to his house from where he was taken to Govt. Hospital, Bahadurgarh by his wife Kavita. From Bahadurgarh he was referred to PGIMS, Rohtak. He was discharged from PGIMS Rohtak on 13.03.2018. On the basis of afore-said information FIR bearing No. 166 dated 14.03.2018 under Section 323/ 341/ 506 IPC & Section 3 of SC/ST Act was registered.

Ld. Additional Sessions Judge, Jhajjar vide judgment dated 31.10.2019 acquitted the accused after observing that prosecution

failed to prove its case beyond reasonable doubt. It is against this judgment present leave to appeal has been filed.

Learned counsel for applicant contends that Ld. Trial Court erred in holding that the prosecution has failed to prove its case beyond doubt as the present case is one in which eyewitness account of the complainant as PW1 is available and the injuries as specified by him in the complaint are supported by the statement of PW10- Dr Manoj Bajaj. He further contends that accused is also liable to be punished under relevant section of SC-ST Act as derogatory comments were made to him on a public place and in public view. In addition to that he also contends that failure of the prosecution to join the passenger of the auto rickshaw of the complainant has been given undue weightage but it was practically not possible as passengers were not known to him and it is the general tendency of public persons not to become witnesses and therefore it could not become fatal to this case.

I have heard learned State counsel and gone through the paper book. I do not find much substance in the arguments raised by learned counsel for the applicant-State. As per the statement of complainant as PW1, two passengers were sitting in his auto rickshaw at the time of incident but neither it was disclosed to the police officials in his complaint, nor any effort was made to record their statement to corroborate the case. As there is no statement of an independent public person to the effect that castiest remarks were made against the complainant in the facts of the present case it raises strong presumption that offence under SC/ST Act was not made out. As utterance of such words in public view is necessary condition, onus to

prove the same was on prosecution and in the absence of any such testimony of an independent person, accused is liable to be given the benefit of doubt.

With respect to injuries suffered by the complainant, it has been the common statement of all the doctors in this case i.e. PW10 – Dr. Manoj Bajaj, PW12-Dr. Gaurav and PW13 – Dr. Shreyas Guha that the injuries could be the outcome of falling on a hard surface due to some road accident as well. Drinking habit of the complainant has been admitted by him as well as by his wife PW2 - Kavita and their testimonies read with the testimony of DW1-Laxman and DW2-Parveen, accordingly, learned Trial Court held that injuries on account of other reasons cannot be completely ruled out. It was because of the above mentioned reasons that learned Trial Court rightly held that the applicant was not able to prove its case beyond reasonable doubt.

In view of the discussion held above, this Court is of the view that Ld. Trial Court has rightly acquitted accused of the charges framed against him and no interference is warranted in the judgment passed by Ld. Trial Court / Special Court. Accordingly, present application is dismissed.

Pending miscellaneous application(s), if any, shall also stand disposed of.

20.03.2023
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(HARKESH MANUJA)
JUDGE

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