



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

CRR-214-2020 (O&M)
Date of Reserve:23.07.2024
Date of Decision:25.07.2024

Guraditta Singh

...Petitioner

Vs.

Balwinder Singh @ Bhinder and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr.Arshpreet Khadial, Advocate
for the petitioner (through V.C).

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present petition against the impugned judgment dated 17.12.2019 passed by the Court of Additional Sessions Judge, Bathinda and judgment dated 15.09.2017 passed by the Court of Judicial Magistrate Ist Class, Talwandi Sabo, whereby the respondent No.1/accused was ordered to be acquitted of the charge under Section 295 of IPC.

2. The FIR in the present case was registered on the basis of the statement made by Guraditta Singh, complainant, who alleged that he was an Amritdhari Sikh (Baptised). At about 07:45 AM on 26.03.2016, he went to take milk from the dairy of Kala Singh and Balwinder Singh, respondent No.1 was already sitting there. He started arguing with him over some old dispute and had a scuffle with him. The respondent No.1/accused had pulled the beard of the petitioner/complainant, which had hurt the religious feeling of the petitioner.

On the basis of the said complaint, the FIR under Section 295 of IPC was



initially registered against respondent No.1.

3. After presentation of the challan, charge under Section 295 of IPC was ordered to be framed against respondent No.1, to which he pleaded not guilty and claimed trial. During the course of trial, the prosecution examined PW-1, complainant, Guraditta Singh, who reiterated the version mentioned in the FIR. PW-2, Khushwinder Singh, also deposed on similar lines and supported the prosecution version. PW-3, ASI Harmanjit Singh, proved the investigation conducted by him and exhibited the FIR, site plan, arrest memo etc.

4. After the closure of the prosecution evidence, the statement of respondent No.1 was recorded under Section 313 Cr.P.C and he alleged his false implication. He stated that the complainant and his son had caused injuries to him in the street and no such incident had happened. Even a cross case was filed by the accused. Even the nephew of the complainant was convicted in the case filed by him and the complainant and his nephew were inimical towards him. Khushwinder Singh has also appeared as a witness against the accused and his brother in a criminal case. In defence, the respondent No.1 tendered judgments Ex.D1 and Ex.D2 and the copy of order dated 11.05.2017 as Ex.D3 and the evidence was closed.

5. Learned counsel for the petitioner contended that both the Courts had not appreciated the evidence in the correct perspective and wrongly relied upon minor contradictions appearing in the statements of prosecution witnesses. In fact, the witnesses had got a chance to appear before the Trial Court after a long period and such minor inconsistencies in the statements of witnesses were



bound to occur due to the time gap. He further contends that the statement of PW-1 Guraditta Singh, complainant was duly corroborated by the statement of PW-2 Khushwinder Singh and the offence under Section 295 of IPC was proved against the respondent No.1. He further contends that the respondent No.1 had pulled the beard of the petitioner with an intention to hurt his religious feelings, due to an old enmity between the parties. Thus, the respondent No.1 has been wrongly acquitted by both the Courts.

6. I have heard learned counsel for the parties and perused the record.

7. In the present case, the Trial Court had framed charge under Section 295 IPC and the same has been reproduced below:-

“295. Injuring or defiling place of worship, with intent to insult the religion of any class.--Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

8. From a perusal of the Section 295 IPC, it must be proved by the complainant that there was destruction, damage or defilement of a place of worship or an object held sacred, with intent to insult the religion of a class of persons. However, in the present case, the petitioner failed to prove that respondent No.1 had destroyed, damage or defiled any place of worship or any



object which is held as sacred by any class of persons In fact, from a perusal of the provision of Section 295 of IPC, it is apparent that the ingredients of the offence under Section 295 of IPC are completely missing in the present case. Apart from that, both the Courts have correctly held that the statements made by PW-1 Guraditta Singh and PW-2 Khushwinder Singh were not reliable and there were contradictions between the statements of both witnesses. The prosecution examined PW-1 Guraditta Singh, who demolished the case of the prosecution. As per him, only he was present at the spot and he had gone to Khushwinder Singh, whereas, PW-2 Khushwinder Singh claimed that he was present at the spot, when the occurrence had taken place. Thus, from the testimony of PW-1 Guraditta Singh itself, it was amply proved that Khushwinder Singh was not present at the spot. Moreover, the house of the Khushwinder Singh was at a distance of 02 kilometers from the place of occurrence and a serious doubt is created with regard to the presence of Khushwinder Singh at the place of occurrence. Apart from that, Khushwinder Singh had earlier appeared as a witness in cases against Balwinder Singh, respondent No.1/accused. Thus, he had a reason to depose against respondent No.1. Apart from that, there were material contradictions in the statements of the witnesses of the prosecution. Thus, both the Courts had rightly disbelieve the prosecution version.

9. Even otherwise, I have carefully perused the impugned judgment dated 17.12.2019 passed by the Court of Additional Sessions Judge, Bathinda and judgment dated 15.09.2017 passed by the Court of Judicial Magistrate Ist Class, Talwandi Sabo and find no reasons to deviate from the findings recorded

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by both the Courts. The impugned judgments do not suffer from any material irregularity or perversity and are liable to be upheld by this Court.

10. As a consequence, the present revision petition is ordered to be dismissed.

11. Pending application(s), if any, stand(s), disposed of, accordingly.

25.07.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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