

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

CRA-S-1527-SB-2004
Reserved on 08.12.2023
Date of decision: 22.01.2024

Hari Singh ...Appellant

Versus

Dhanna Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. B.S. Jaswal, Advocate for the appellant.

Mr. Rohit Ahuja, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present appeal has been filed by appellant against the judgment and order dated 17.07.2004 passed by the Court of Special Judge, Amritsar whereby the appellant and one Piara Singh were convicted and sentenced to undergo rigorous imprisonment for a period of 6 months and to pay a fine of Rs.300/- each and in default of payment of fine to further undergo rigorous imprisonment for a period of 15 days each, under Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short the Act).

2. The brief facts of the case are that complainant/respondent No.1 Dhanna Singh lodged complaint under Section 3(1) (x) of the Act and under Sections 323, 506 read with Section 34 of IPC against appellant Hari Singh, Piara Singh, Manjit Singh and Kartar Singh with the Illaqa Magistrate, wherein it was alleged that complainant belongs to Scheduled Caste being Mazbi Sikh and his wife was sarpanch of the village at the time

of occurrence. That on 20.07.2000 at about 02:00 PM, a panchayat was convened regarding dispute over shamlat land between appellant Hari Singh and one Rattan Singh son of Sardul Singh and at that time Manjit Singh stated to the complainant in a fit of anger “toon shamlat jameen daa mama lagda hai and toon iss jhagrhe wali thaane wichon kee lena hai”. On this Manjit Singh was advised to use sober and polite language. Appellant Hari Singh addressed to the complainant “kuta churha naahove and toon kilo kilo daane mangda phirdan hai” and appellant Hari Singh further proclaimed that complainant being husband of a sarpanch, consider himself to be sarpanch of the village. In the meantime, Piara Singh addressed to the complainant “tenoo kute churhe noon pind wich nihi rehan diange”. Manjit Singh started giving pushes to the complainant and also gave him fist blows and in this manner accused persons intentionally insulted and humiliated the complainant and made aspersions regarding his caste, in presence of the panchayat. The accused being influential persons, police failed to take any action against them.

3. After recording preliminary evidence, the accused were summoned under Section 3 (1) (x) of the Act.

4. On appearance of the accused, the case was committed to the Court of Sessions by the Court of Judicial Magistrate concerned.

5. The trial Court framed charges under Section 3 (1) (x) of the Act and Section 323 read with Section 34 of IPC against appellant Hari Singh, and Piara Singh and under Section 323 IPC against Manjit Singh and under Section 323 read with Section 34 of IPC against Kartar Singh to which, they pleaded not guilty and claimed trial.

6. To prove the charges, prosecution examined PW-1 Dhanna Singh (complainant), PW-2 Jagir Singh and PW-3 Rattan Singh.

7. PW-1 while appearing in the witness box deposed regarding the occurrence which took place on 20.07.2000 at about 02:00 PM when the panchayat was convened to settle dispute regarding shamlat land between Hari Singh and Rattan Singh. PW-1 stated that at that time Manjit Singh asked him whether he is mama of the land and then Hari Singh stated to him that he support the person who gave him wheat in kilos while Piara Singh addressed him “kuttia churharia tinu rehan ni dena”. While Manjit Singh started pushing him and as such the accused person intentionally insulted him by using derogatory remarks against his caste. He further deposed that he reported the matter to the police but police failed to take any action. PW-1 further deposed that he belongs to Scheduled Caste and at the time of occurrence his wife was sarpanch of the village and he used to help his wife.

8. PW-2 Jagir Singh also deposed regarding the aforesaid occurrence and further stated that at that time Manjit Singh stated to the complainant that “toon mama lagda hai” and then Hari Singh addressed to the complainant “kuttia chuharia toon kilo kilo dane mangda hai”. Further Piara Singh addressed to complainant “kuttia chuharia tenu pind wich nahi rehan dena hai”. Manjit Singh started giving pushes to the complainant and the said occurrence was witnessed by him.

9. PW-3 Rattan Singh also deposed regarding the occurrence in question and stated that Manjit Singh asked complainant “toon mama lagda than da”. While Hari Singh told complainant “toon kilo kilo dane mangda phirda hai kuttia chuharia”. Piara Singh addressed to complainant “toon

bekh le kida sarpanchi karde hai teri sarpanchi nahi hoon deni”. In the meantime, Manjit Singh started giving pushes to Dhanna Singh and that the said occurrence was witnessed by him.

10. The prosecution closed its evidence. The accused persons were examined under Section 313 Cr.P.C wherein they pleaded innocence and false implication.

11. The accused examined DW-1 Harpal Singh of police station Ajnala who produced summoned record relating to three different FIRs Ex.DB, Ex.DC and Ex.DD which were registered against complainant Dhanna Singh in police station Ajnala.

12. DW-2 Munish Kumar employee of Dr. Sohan Singh, Eye Hospital, Amritsar produced the record of medical treatment of Kartar Singh as per which the said patient was admitted in a Hospital on 18.07.2000 for his treatment and was discharged on 19.07.2000 and the said record is Ex.DE.

13. Accused Hari Singh produced certified copy of complaint dated 16.04.2003 Ex.DF and certified copy of statement of Jagir Singh Mark-B and that of Bhajan Singh Mark-C.

14. After hearing the counsel for the parties, the learned trial Court acquitted Manjit Singh. However, appellant Hari Singh and Piara Singh were convicted and sentenced as has been detailed in the opening paragraph of this judgment.

15. Being aggrieved, the appellant has filed the present appeal. Notice of the same was issued to the state and the complainant. As per the office report, the complainant has died.

16. I have heard the counsel for the appellant and the State counsel and gone through the record of the learned trial Court.

17. The counsel for the appellant while assailing the impugned judgment and order has *inter alia* contended that the appellant was falsely implicated in the present case and no such incident as alleged by the complainant had ever taken place on 20.07.2000. That the complaint with regard to alleged incident was lodged on 03.08.2000 in the Court of Illaqa Magistrate and the delay in filing of the said complaint was not properly explained by the prosecution/complainant. It is further submitted that there is no independent corroboration to the testimony of the complainant who appeared in the witness box as PW-1. The counsel for the appellant has further contended that PW-3 Rattan Singh belongs to the opposite party as the panchayat was convened to resolve the dispute between said Rattan Singh and the appellant, as per the allegations appearing in the complaint. It has been further contended that presence of PW-2 Jagir Singh at the time of alleged occurrence appears to be doubtful as he was not member panchayat at the time of the alleged incident. The counsel for the appellant has further argued that the complainant while appearing in the witness box as PW-1 did not state that the appellant used any abusive language against his caste at the time of occurrence, as is evident from his testimony. It has been further contended that complainant was a habitual offender and FIRs Ex.DB, Ex.DC and Ex.DD were registered against him. It has been further contended that in the given circumstances, the statements of PWs cannot be believed in the absence of any independent corroboration. So prayer is made that the impugned judgment and order be set aside.

18. The State counsel while opposing the present appeal has supported the judgment and order passed by the trial Court. The State counsel has further contended that the learned trial Court rightly convicted and sentenced the appellant and other accused, as ample and reliable evidence is available on the record to prove that at the time of occurrence appellant and Piara Singh used abusive and derogatory language against the complainant in the name of his caste and the said offending language was intentionally used by them. It has been further contended that appeal filed by the appellant deserves to be dismissed.

19. I have considered the submissions made by counsel for the parties.

20. It is settled position of law that insulting or intimidating a person belonging to scheduled castes/scheduled tribes (in short SC/ST) will not by itself amount to an offence under the Act unless such insult or intimidation is on account of victim belonging to SC/ST community as has been held by Hon'ble Supreme Court in ***Hitesh Verma Vs. State of Uttarakhand AIR 2020 Supreme Court 5584.***

21. In the present case, the prosecution has not produced or proved scheduled caste certificate of complainant/respondent No.1 during the trial. Further from the perusal of the testimony of complainant/respondent No.1 who appeared in the witness box as PW-1, it is evident that as per said testimony, the appellant did not hurl any abuses to the complainant in the name of his caste. As per said deposition, appellant simply stated to the complainant that he is supporting the person who supplied him wheat in kilos, while other accused persons made caste related utterances against the

complainant. No doubt, PW-2 and PW-3 while appearing in the witness box specifically stated that the appellant also hurled abuses to the complainant by addressing him as “kuttia chuharia”, in their presence. Admittedly, PW-2 and PW-3 in their deposition nowhere stated that the complainant/respondent No.1 belongs to scheduled caste. Further from the perusal of testimony of PW-2 and PW-3, it cannot be made out that the appellant used aforesaid derogatory and offensive language against the complainant/respondent No.1 due to the reason that victim was belonging to SC/ST community. Furthermore, PW-3 is the same person with whom the appellant was having dispute with regard to shamlat land and the panchayat was convened on that day to resolve said dispute. Thus, it could be easily made out that PW-3 was having a strong motive to depose against the appellant. From the perusal of testimony of PW-2, it is evident that he was not member panchayat at the time when the occurrence in question had taken place. PW-2 while appearing in the witness box stated that he also accompanied the complainant to police station to lodge complaint regarding incident in question and police recorded his statement. But no such statement of PW-1 recorded by the police is available on the record. It being so, the presence of PW-2 at the time of the occurrence seems to be doubtful. No member of the gram panchayat was examined by the complainant/prosecution in order to prove the case. In the given circumstance, the testimonies of PW-1 to PW-3 cannot be believed in the absence of any independent corroboration.

22. Further, the occurrence in question took place on 20.07.2000 and the complaint with regard to said incident was lodged by the

complainant/respondent No.1 in the Court of Sub Divisional, Judicial Magistrate, Ajnala on 03.08.2000. In the absence of any independent corroboration as has been discussed above, the benefit of aforesaid delay in lodging of the complaint, also goes in favour of the appellant.

23. In the light of the above discussion and as per the law settled in **Hitesh Verma’s case** (supra), the respondents have failed to prove their case against the appellant beyond a shadow of doubt.

24. Consequently, the present appeal is allowed and the impugned judgment and order dated 17.04.2004 passed by the learned trial Court are hereby set aside against the appellant and he stands acquitted. His surety stands discharged.

25. The present appeal is allowed in the aforesaid terms.

22.01.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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