

**216-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-1048-SB-2015 (O&M)
Date of decision: 22.02.2024

Hawa Singh

....Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ravinder Malik, Advocate
for the appellant

Ms. Geeta Sharma, DAG Haryana

HARPREET SINGH BRAR, J.

CRM-7457-2015

This is an application seeking condonation of delay of 610 days in filing the accompanying appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 610 days in filing the appeal is condoned.

CRA-S-1048-SB-2015

1. This instant appeal has been preferred by the appellant-complainant against the judgment of conviction dated 21.04.2014 and order of sentence dated 22.04.2014 passed by learned Additional Sessions Judge, Fatehabad in FIR No.67 dated 05.03.2011 registered under Sections 323, 506, 279, 336 of IPC and Section 3 of the Scheduled Castes and the Scheduled tribes (Prevention of Atrocities) Act, 1989. The respondent no. 2, 3 and 4 were sentenced as under:-

Under Section	Sentence
323 r/w 34 IPC	<i>R.I of 4 months with a sum of Rs.4,000/- each</i> to be paid as compensation to the complainant-injured under Section 357(3) Cr.P.C.

FACTUAL BACKGROUND

2. Briefly, the facts are that on 05.03.2011, appellant-complainant Hawa Singh gave his statement to the police to the effect that when he was going in his car, a motorcyclist who was driving the same in a rash and negligent manner came and struck his motorcycle in the car of the complainant. When the appellant asked about name of the father of the said motorcyclist, the private respondents along with two other accused who were mere bystanders threw rubbish/garbage on the face of the complainant. Upon him resisting, respondent no.2 Yogesh gave iron rod blow on the neck of the complainant as well as on the left arm and on the left side of his head. Respondent no.3 Sunil inflicted lathi (stick) blow on the right hand of the complainant, whereas, respondent no.4 Vinod inflicted lathi (stick) blow on his foot. Other assailants also inflicted injuries upon the appellant-complainant and all of them called casteist slurs to him as he belongs to a Scheduled Caste. When the appellant raised an alarm, his son along with another person rescued him while the private respondents and other assailants fled away from the spot. While leaving the spot, the private respondents threatened the appellant with dire consequences.

3. The learned trial Court upon finding a prima-facie case, framed charges against the private respondents-accused under Section 323 and 506 read with Section 34 of IPC as well as Section 3(1)(x) of the SC&ST Act, 1989 on 27.03.2102, to which they pleaded not guilty and claimed trial.

4. On assessing the material available on record, the learned trial Court vide judgment and order dated 21.04.2014/22.04.2014 convicted and sentenced the private respondents under Section 323 read with Section 34 of IPC. Aggrieved by the fact that the private respondents were not convicted under Section 506 of IPC and Section 3(1)(x) of the SC & ST Act, 1989 and praying for enhancement of sentence, the appellant-complainant has approached this Court in the present appeal.

CONTENTIONS

5. Learned counsel for the appellant-complainant contends that the testimony of the appellant-complainant and the other eyewitness has sufficiently proved the commission of offence under Section 506 IPC and Section 3 of the SC and ST Act since there are specific attributions to the private respondents of threat, beatings and abuses in the name of caste. It is further submitted that the learned trial Court has erroneously and whimsically believed one set of allegations while disbelieving the other which has caused serious injustice to the appellant-complainant.

6. Learned State counsel also submits that there is ample evidence on record to prove that the private respondents had assaulted the appellant-complainant and used casteist slurs in full public view with an intention to humiliate him for being a member of a Scheduled Caste and thus, they were wrongly discharged of the offences under Section 506 of IPC and Section 3 of the SC & ST Act.

ANALYSIS AND OBSERVATIONS

7. I have heard learned counsel for the petitioner and after perusing the paper-book with his able assistance, it transpires that the alleged threat made by the respondents was while they were going away and was conditional in

nature, thereby making them deserving of the benefit of doubt qua Section 506 IPC. As far as the allegations under the SC & ST Act are concerned, it is pertinent to note that there is an intentional delay of one day on the part of the appellant in making his statement before the concerned police even though he was declared fit by the concerned doctor qua the same. Further, it is clear that the alleged incident happened impetuously, although in a public place, but a pre-planned intention to humiliate the appellant on account of him being a member of the scheduled caste, has not been established beyond reasonable doubt. Also, the fact whether the respondents had any previous knowledge of the caste affiliation of the appellant is not established beyond reasonable doubt. Therefore, this Court is of the opinion that the observations made by the learned trial Court while passing the abovesaid judgement of conviction and the order of sentence are correct and valid.

CONCLUSION

8. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present appeal and hence, the same is denied.

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

(HARPREET SINGH BRAR)
JUDGE

22.02.2024
Neha

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