



IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH

233

CRM-A-654-2019  
DECIDED ON: 28.05.2024

MAHIPAL

... APPLICANT/APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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Present: Mr. Rajesh Dhankar, Advocate  
for the applicant/appellant.

Mr. Chetan Sharma, DAG, Haryana.

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SANDEEP MOUDGIL, J.

**1. RELIEF SOUGHT**

The jurisdiction of this Court under Section 378(3) of the Code of Criminal Procedure, 1973 has been invoked seeking grant of leave to appeal against the judgment of acquittal dated 20.12.2018 vide which, respondents No.2 to 4 have been acquitted of the charges levelled against them.

**2. FACTS**

The prosecution's case as narrated in the FIR is as follows:

On August 1, 2016, Mahipal, a Scheduled Caste member from village Bardu Mugal, filed a complaint (Ex. P2) with HC Rajesh Kumar at the Budhera bus stop on the allegation that on July 27, 2016, while a local commissioner was demarcating a passage, Ram Bhagat, Rampal, and Birbal

(respondents No.2 to 4) abused him with filthy language, threatened to kill him, and humiliated him because of his caste. They also allegedly forced him to perform his traditional job of removing dead animal skins in the presence of Karan, Jai Singh, Rajender, Hari Singh, and Narender. Initially, the case was registered under Section 506/34 of the Indian Penal Code, but later on the offence under Section 3 of the SC & ST Act was added after further investigation by DSP Vijay Pal.

3. **SUBMISSIONS**

**ON BEHALF OF COUNSEL FOR THE APPLICANT/APPELLANT:**

It has been contended by learned counsel for the applicant/appellant that the private respondents have humiliated the applicant/appellant in the Society in the presence of eye witnesses i.e. PW-3-Bahadur Singh, PW-4 Karan Singh and PW-5 Jai Singh, who were the independent witnesses and have fully corroborated the version of prosecution, therefore, guilt of the accused is proved beyond reasonable doubt. It has further been contended on behalf of applicant/appellant that the trial Court has erred in observing that there is a delay in registration of FIR, as the application was moved on the very next day of incident but the same was registered by the police after a delay of three days. Moreover, respondent No.4-Ram Bhagat was summoned vide order dated 7.02.2017 under Section 319 Cr.P.C. The trial Court has not considered the testimonies of independent witnesses as well as documentary evidence placed on record.

**ON BEHALF OF LEARNED STATE COUNSEL:**

It has been argued that the complainant-Mahipal statement (Ex-P2) is credible and supported by independent witnesses, PW-3 Bahadur Singh, PW-4 Karan Singh and PW-5 Jai Singh. Since, there is no reason to disbelieve the

testimonies of PW-3 to PW-5, therefore, the guilt of the accused is proved beyond a reasonable doubt.

**5. ANALYSIS**

It is not in dispute that there is an unexplained delay of four days in lodging the complaint as the alleged incident took place on July 27, 2016 and the complaint was lodged on August 1, 2016. Moreover, from the record, it is crystal clear that the testimony of PW2 Bahadur Singh, the Local Commissioner should not be relied upon, as he was recommended by the complainant, meaning thereby, he is an interest witness. Narender, who appeared in the witness box as DW4 has categorically stated that the accused were protesting the improper demarcation of land but not uttered any caste-related slurs. Further more, the accused had filed a complaint against the Local Commissioner on July 29, 2016, before the registration of present case, which is sufficient for this Court to infer that they had a grievance against the demarcation process. The afore-said observation raises doubts about the prosecution's case and the credibility of its witnesses. The complainant, PW2 Mahipal, claimed that on July 28, 2016, he informed the Panchayat Secretary and a meeting was held to discuss the alleged incident. A resolution was passed to take action against the accused. However, the prosecution failed to provide any evidence of this resolution, casting doubt on the complainant's claim. The complainant's testimony about a resolution being passed against the accused is uncorroborated and lacks concrete evidence, which raises questions about its validity.

**6. CONCLUSION**

In view of the discussions made hereinabove, this Court is of the considered view that since the prosecution as well as complainant has failed to

prove the guilty of the accused persons, therefore, no interference is called for to entertain the present application. Hence, the same is dismissed being devoid of any merits.

28.05.2024  
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(SANDEEP MOUDGIL)  
JUDGE

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