

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-454-2019 (O&M)

Date of Reserved: 14.05.2026

Date of Pronouncement: 29.05.2026.

State of Haryana

....Applicant.

Versus

Savita Dahiya

...Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Argued by: Mr. R.K. Singla, Addl. A.G., Haryana.

Sukhvinder Kaur, J.

1. Applicant-State has preferred the instant application under Section 378(3) Cr.P.C. seeking leave to appeal against judgment dated 25.07.2018, passed by learned Additional Sessions Judge, Gurugram, vide which respondent has been acquitted of offences punishable under Sections 186, 189 IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Brief facts of the prosecution case are that on 09.08.2016 complainant L/Constable Ritu Bala presented a complaint to police alleging therein that two months ago, she was deputed on Protection Duty with Savita Dahiya and when she went for the first time on duty, Savita Dahiya asked about her caste and she disclosed that she belongs to SC category. Thereafter, she started misbehaving with her by threatening to get her suspended from the job and even compelled her to do the household chores.

She also threatened the complainant to teach a lesson if she would disclose about this to the senior officers. On 09.08.2016 when she was present on her duty at the house of Savita Dahiya, she suddenly changed her behaviour and while using her caste name, threatened her to go away from her house. Another lady Constable Sunita also disclosed that she had also been harassed by Savita Dahiya by using castiest words against her. On the basis of these allegations, FIR was registered. Accused was arrested. During investigation, scaled site plan of the place of occurrence was prepared. Caste certificate of complainant was taken into police possession. After completion of investigation, challan against accused was presented in the court for trial.

3. After finding a prima facie case against the accused, he was charge-sheeted for the offence punishable under Sections 186, 189 IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to which she pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined as many as 10 witnesses.

PW1 L/Constable Ritu Bala, complainant deposed on the lines of the complaint given by her to the police.

PW2 Girish Kumar Draftsman, prepared scaled site plan Ex.PW2/A.

PW3 L/Constable Anju, deposed that accused used derogatory caste remarks against the complainant and on account of misbehaviour by the accused, they took their luggage and reported in the police station.

PW4 ASI Jitender Singh, deposed that he had sent special report to the Area Magistrate and higher Police Officers without any delay.

PW5 Rajesh Kumar Patwari, proved SC certificate of the complainant.

PW6 SI Rani Devi, deposed that on instructions from ACP, accused was medically examined and thereafter, she was produced before the ACP and Area Magistrate.

PW7 L/Constable Sunita, deposed that when she was deputed with the accused, accused asked her to do all her work and when she refused to do so, accused used derogatory caste remarks and shunted her out of house.

PW8 Kishori Lal, DSP, the Investigating Officer of this case, who carried out entire investigating proceedings since the registration of the FIR, deposed about various investigating proceedings conducted by him during the course of the investigation.

PW9 Inspector/SHO Anil Kumar deposed that after completion of investigation challan was presented against the accused.

PW10 EHC Jaipal Singh, is a formal witness.

5. Statement of accused under Section 313 Cr.P.C. was recorded in which, all incriminating evidence was put to her, which she denied and pleaded innocence. In her defence evidence, the accused examined DW1 Vijay Singh Lather, AGM (Legal) BSNL, who produced call detail record of mobile No.9468324870 belonging to Ritu Bala, from 06.08.2016 to 10.08.2016.

DW2 Rajeev Khanna, brought bill book of Khanna Travels and proved that car bearing No.HR-26-BH-9191 was booked by the accused for going from Gurugram to Rohtak and back on 09.08.2016.

DW3 Constable Pradeep Kumar, produced complaint register

of circulating branch of C.P. Office and deposed that e-mail complaint No.4409/PRO dated 09.08.2016 regarding protection duty was sent by Savita Dahiya.

DW4 HC Surender Singh brought record pertaining to complaint diary No.519-SP-II dated 08.08.2016 and proved that complaint by accused was sent on 08.08.2016.

DW5 Pawan Singh Nodal Officer, brought call details record of mobile No.9990580023 in the name of accused from 06.08.2016 to 10.08.2016.

DW6 Constable Pradeep, produced record regarding e-mail sent by the accused to Police Station Sector-5, Gurugram.

6. After considering the evidence on record, learned trial Court found the same to be woefully insufficient to convict the accused who was accordingly acquitted of the offence for which she had been charge-sheeted, vide impugned judgment dated 25.07.2018.

7. Aggrieved of the said decision, present appeal has been filed by the state challenging acquittal of the accused/ respondent.

8. Learned counsel for the applicant-State vehemently contended that the learned trial Court has erroneously drawn adverse inference regarding delay of 24 days in lodging of the present FIR and has ignored the fact that DD entry in this regard was made on 17.07.2016. The contradictions in the statement of PW1 Ritu Bala and PW3 Anju occurred due to lapse of time and do not go to the roots of the prosecution case. Both these witnesses have deposed regarding harassment at the hands of the accused and using of derogatory caste remarks against the complainant

when she was performing her duty as PSO for protection of accused. Trial Court has wrongly given undue weightage to the defence evidence and from the defence evidence false implication of the accused is not established. He thus prayed that this appeal be accepted, judgment dated 25.07.2018 be set aside and accused be convicted for the offences as charged with and be punished accordingly.

9. After having heard learned counsel for the appellant at length and having perused the impugned judgment as well as other relevant record, I am of the considered opinion that prosecution in the instant matter was unable to prove its case against the accused beyond the reasonable doubt.

10. Complainant Lady Constable Ritu Bala while appearing as PW1 deposed that in the month of July 2016 when she was posted as PSO with accused Savita Dahiya, then for the first time she had went to her residence. She asked her about her caste and she disclosed to her that she belongs to schedule caste. Thereafter, accused started misbehaving with her due to her caste and also uttered derogatory caste remarks against her at public place while she was doing her duty with accused Savita Dahiya and threatened her to get her suspended from her job.

11. Thus, as per deposition of complainant, for the first time in July 2016, the accused had uttered derogatory caste remarks against her and had also threatened her to get her suspended from the job by making complaint to the higher authorities. Trial Court has rightly observed that silence of complainant for more than 24 days from 17.07.2016 to 09.08.2016 has remained unexplained and it assumes more importance when complainant herself was a police official and nothing has been brought on record that what stopped her from reporting the matter to her superiors.

12. Complainant also deposed while appearing as PW1 that on 05.08.2016 Lady Constable Anju came to the residence of accused as her substitute, for temporary period, for getting her relieved and she did her duty for two days. During her duty accused Savita Dahiya had dropped her at IFFCO Chowk during the night, regarding which she had informed her senior officers at Police Station Sector-5, Gurugram. Thus, as per PW1 Lady Constable Anju had joined the duty in her place for two days. She has also admitted that she had gone to the residence of accused only on 09.08.2016. If Lady Constable Anju had done duty only for 05.08.2016 and 06.08.2016, then to fill in the gap till 09.08.2016 she had failed to produce any leave from her duty till morning of 09.08.2016.

13. During her cross-examination she admitted that in her complaint, she had not mentioned that Lady Constable Anju had come to residence of accused for getting her relieved on 05.08.2016 and she did her duty for two days with accused Savita Dahiya and accused had dropped her at IFFCO Chowk on 06.08.2016 during the night time. It shows that the complainant made material improvements while deposing in the Court.

14. PW1 did not disclose the exact place, time, date, month and year where accused had used caste remarks against her, which also creates doubt regarding version of the complainant.

15. PW3 Lady Constable Anju stated in her cross-examination that on 09.08.2016, she along with lady Constable Ritu Bala had gone to the house of accused at about 4/5.00 P.M. She stated that she had never reported the concerned police station regarding her duty hours. She also stated that on 06.08.2016 when she was dropped by accused at IFFCO Chowk, she told her that she was going out of station for her personal work

and would intimate her on her return, but she did not intimate her upto two days and then in the morning of 09.08.2016 accompanied with Ritu Bala she went to residence of accused. Accused had not met them and then they again went to residence of accused at noon time and met her mother. On 08.08.2016 at about 10/11.00 P.M. she informed the police official of Police Station Sector-5, Gurugram regarding missing of accused, on which DDR was registered, but she could not produce the said DDR. She deposed that on 09.08.2016 she and lady Constable Ritu Bala were deputed with the accused as PSO and it was their mutual understanding that who would do the duty. Though, PW1 complainant, lady Constable Ritu Bala and PW3 Lady Constable Anju had deposed that they were in Gurugram during the said period but nothing has been produced on record by the complainant that they were on duty on 05.08.2016, 06.08.2016, 07.08.2016, 08.08.2016 and in the morning of 09.08.2016 and were present in Gurugram.

16. PW7 Lady Constable Sunita stated in her cross-examination that accused Savita Dahiya never abused her in the name of her caste during her duty hours. Her statement was never recorded by the Investigating Officer in the present case and she had not filed any civil or criminal case regarding the above said incident. Trial Court has rightly observed that, it shows that PW7 Lady Constable Sunita was later on made a witness by the prosecution just to strengthen the case of the prosecution.

17. Call details record of mobile of complainant Lady Constable Ritu Bala and tower location from 06.08.2016 to 10.08.2016 was produced by DW1 Vijay Singh Lather, AGM (Legal) BSNL. He proved the call details as Ex.D1. As per call details Ex.D1, on 06.08.2016 location of mobile number of lady Constable Ritu Bala, at about 8:21:08 A.M. was at

village Cheeka, District Kaithal and in afternoon of 06.08.2016 her location had been shown in Punjab and shows that she travelled District Patiala, Ropar and in the evening of 06.08.2016 she was in Chandigarh. Thereafter, at about 6:42 she left Chandigarh and was travelling Ambala and Kurukshetra etc. On 07.08.2016 also she was not in Gurugram and her location was at village Cheeka. On 08.08.2016 also her location was at village Cheeka. In the mid-night of 08.08.2016 at 0:10:35 she was at village Cheeka as per her location. On 09.08.2016 her location in the morning at 8:00:21 A.M. was at Cheeka and at 9:08:34 A.M. was also at Cheeka, at 9:39:16 A.M. also at village Cheeka and at District Kaithal, at 10:53 A.M. At 11:16:00 A.M., on 09.08.2016 she was at Jind and her location at 1:09 P.M. was also in Jind District. Thereafter, she started travelling and her location was changing and her changed location of 09.08.2016 showed that at 1:51 P.M., she was at Rohtak and thereafter, at 2:35 P.M. at Jhajjar and at 3:01 P.M. she was at Bahadurgarh. Thereafter, she entered in Gurugram and she crossed Dhankot at 3:32 P.M., So it is clear that she reached at Dhankot Gurugram at 3:30 P.M. So, she was not on her duty in Gurugram till 4:00 P.M.

18. The location of mobile of accused Savita Dahiya on 09.08.2016 Ex.D5/A shows that she was out of Gurugram and entered in Gurugram at 5:59 P.M. on 09.08.2016 and she reached Laxman Vihar Gurugram at about 6:40 P.M. on 09.08.2016.

19. The location record of the complainant had completely falsified the statements of PW1 Lady Constable Ritu Bala and PW3 Lady Constable Anju that in the morning of 09.08.2016 they both had gone to the residence of accused Savita Dahiya. It has been duly proved that as per location record

of PW1 Ritu Bala, she remained in village Guhla Cheeka from 06.08.2016 to 09.08.2016 and she was in village Cheeka even on morning of 09.08.2016 and she had entered Dhankot Gurugram on 09.08.2016 only at 3:30 P.M. Thus, there was no occasion for PW1 Ritu Bala and PW3 Anju to visit the house of accused in the morning of 09.08.2016.

20. DW3 Constable Pradeep Kumar, proved that accused Savita Dahiya had sent complaint against Lady Constable Ritu Bala through e-mail. DW4 HC Surender Singh, who brought the record of complaint diary No.519-SP-II dated 08.08.2016 also proved that complaint was received through e-mail in P.S. Sector-5, Gurugram which had been sent by Savita Dahiya in connection with not properly performing the duty by PSO provided to her by the order of High Court. DW6 Constable Pradeep also proved the copy of e-mail as Ex.D6/1 sent by accused Savita Dahiya to Police Commissioner Gurugram.

21. Perusal of e-mail Ex.D6/1 that had been sent on 08.08.2016 to Police Commissioner and Deputy Commissioner (West) Gurugram by the accused reveals that security was provided to her, her children and her mother for threat in a case bearing No. 27 of 2015 and she had complained that PSO provided to her for protection, were not protecting her and they were not coming on duty and remained continuously absent from the duty and had been coming to their duty only as per their wish. Even gun and cartridge had been left in the house of the complainant by the said Constable. She alleged that on 06.08.2016, the PSO, who was on duty had left her gun with her in District Court Gurugram and she was left alone in the Court canteen. She was informed that Constable Ritu would come on duty but neither Ritu nor Anju came on duty. When she repeatedly informed

to Police Station Sector-5, she was told to talk to OSI Branch. She had complained that her security was under threat and police could confirm from the CCTV footage installed in front of her house and without security she was in fear. On the next day, complainant lodged a complaint against her and the other lady constable became witness against accused Savita Dahiya. Trial Court has rightly observed that from location chart of lady Constable Ritu Bala and PW3 Lady Constable Anju, it is clear that just to avoid disciplinary action on the complaint of the accused made against them sent to Police Commissioner, in the evening after coming from village Guhla Cheeka to Gurgaon, PW1 Lady Constable Ritu Bala lodged the complaint against accused Savita Dahiya for making castiest remarks.

22. As already observed that though the complainant had levelled the allegation against the accused that she had used derogatory remarks against her caste at public places but the specific date, places, time, date and month had not been disclosed and as such ingredients of Section 3 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act are not completed.

23. After analyzing the evidence on record the learned trial Court has rightly held that the prosecution has failed to prove its case against the accused beyond shadow of reasonable doubt.

24. It is well settled that judgment of acquittal should not be interfered with lightly. In the case of **Sadhu Saran Singh Vs. State of U.P. and others, 2016 (2) RCR (Criminal) 319**, the Hon'ble Supreme Court reiterated that generally an appeal against acquittal has always been altogether on a different pedestal from that of an appeal against the conviction. It was held that in an appeal against acquittal, where the

presumption of innocence in favour of the accused is reinforced, the Appellate Court would interfere with the order of acquittal only when there was perversity of fact and law.

25. Learned counsel for the appellant was unable to point out any illegality, infirmity or perversity in the impugned decision dated 25.07.2018 which calls for interference.

26. In view of the above, no case is made out for grant of leave to appeal against acquittal of accused/ respondent. The application without having any merits stands dismissed and the leave to appeal is declined.

27. Pending applications, if any, also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

29.05.2026.

Komal

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