

(2010) 10 P&H CK 0321

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 447-MA of 2009 (O and M)

Hawa Singh

APPELLANT

Vs

Narender and Others

RESPONDENT

Date of Decision : 25-10-2010

Acts Referred:

Limitation Act, 1963 — Section 5

Penal Code, 1860 (IPC) — Section 323, 324, 326, 34, 452

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2010) 10 P&H CK 0321

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Judgement

Nirmaljit Kaur, J.

Crl. Misc. No. 38579 of 2009

1. This is an application u/s 5 of the Limitation Act for condonation of delay of 77 days in filing the appeal.

2. For the reasons recorded in the application, the delay of 77 days in filing the appeal is condoned and the application is, accordingly, allowed.

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3. This is an appeal against the judgment and order dated 28.02.2009 passed by the Additional Sessions Judge (I), Jind, vide which, the complaint under Sections 323/324/452/506 IPC and Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been dismissed.

4. Learned Counsel for the Appellant submitted that as per the statement of PW-1 Dr. Dhan Kumar, the offence is fully proved against the accused Respondents. Secondly, the Court had erred in observing that the prosecution has not examined Surrender, whereas, to prove the case, the prosecution has

examined PW-1 Dr. Dhan Kumar, PW-2 Hawa Singh i.e. the complainant, PW-3 Sushil son of Hawa Singh i.e. the injured. Their statements cannot be discarded.

5. Heard.

6. The case of the complainant is that on 20.09.2001, accused/Respondent entered into his house and started beating his family members and attacked upon him. The matter was reported to the police and FIR No. 126 dated 20.09.2001 under Sections 324, 326 and 34 IPC was registered, in which, some of the accused/ Respondents are facing trial and are on bail. On 25.10.2001, at about 6.00 p.m., sons of the complainant namely Sushil and Surender were playing outside of his house. At about 6.00 P.M., he had come from his routine work and his sons Sushil and Surender were playing outside his house. In the meantime, Narender, Virender son of Satbir came there and they started beating his sons. Jai Singh son of Sardara caught hold of them. The accused/ Respondents were threatening that if the case was not withdrawn they would kill the complainant. On asking by the complainant that why they are beating his children, Jai Singh said that "Dhed Kamin Tumahri Itni Himmat Ki Turn Hamare per kes karo" and said if case is not withdrawn, they will not allow to reside.

7. Statement of Dr. Dhan Kumar, PW-1 was perused. As per the cross-examination of Dr. Dhan Kumar, "possibility of injuries Nos. 2, 3 and 4 on the person of Surender and injuries Nos. 1 and 2 on the person of Sushil self inflicted and by friendly hand could not be ruled out." Thus, the doubt was expressed by doctor himself that the said injuries could be self inflicted. In fact, the doctor admitted that the signatures of the injured were not obtained in the medical report. He also admitted that it was necessary and mandatory to obtain the signatures of the injured persons. In the background of these two shortcomings i.e. the evidence of doctor stating that the injuries could be self inflicted and the signatures of the injured were not obtained on the medical reports, it became all the more necessary that the statement of the injured should have been corroborated by the independent witness, especially, when the incident is said to be in full public view.

8. Thus, the statements of the injured were not corroborated. Doubt has been expressed even on the manner, in which, the injuries appear to have been inflicted. The medical report is not signed by the injured. There is no certificate produced on record with respect to the caste of the complainant. Accordingly, no fault can be found with the well reasoned judgment and order dated 28.02.2009 passed by the Additional Sessions Judge (I), Jind, acquitting the Respondents.

9. No merit.

10. Dismissed.