
(2010) 04 P&H CK 0292
In the Punjab And Haryana At Chandigarh

Nar Singh @ Narsi Ram

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 05-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378
Penal Code, 1860 (IPC) — Section 109, 120B, 323, 34, 504
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2010) 04 P&H CK 0292

Hon'ble Judges : Sabina, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sabina, J.—Complainant Nar Singh @ Narsi Ram filed a complaint under Sections 3(ii)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the Act for short) read with Sections 323, 504, 506, 34, 109, 120B of the Indian Penal Code Police Station City Thanesar against respondent Nos. 2 to 4. Vide impugned judgment dated 15.9.2009, learned trial Judge acquitted respondent Nos. 2 to 4 of the charge framed against them. The complainant has filed this application u/s 378(4) of the Code of Criminal Procedure with a prayer for grant of leave to file an appeal against the order mentioned above.

2. The case of the complainant, as noticed by the trial Court in para Nos. 2 to 5 of its judgment, reads thus:

2. Brief facts of this case as set up in the complaint are that complainant is resident of Kurukshetra and law abiding citizen. He belongs to "Chamar" caste which is a scheduled caste community as declared by Haryana Government. Accused persons belong to upper caste and not belong to scheduled caste community. Earlier complainant was doing the business of wooden/timber work at Narwana district Jind. Accused persons used to visit him and complainant had

given them Rs. 35,000/- to accused No. 1 in the presence of accused No. 2 in good faith and because of friendly relations between the parties. The said amount was given to accused No. 1 in December, 2002 with the promise to return the amount within one month. However, accused No. 1 did not return the amount despite demand.

3. On 8.6.2003 all the accused persons with their common intention to insult and intimidate the complainant and to humiliate him came in front of the house of complainant's son which is situated at Chanarthal Road, Kurukshetra. All the accused persons shouted the following words in presence of wife of complainant and his sons:

Baahar Nikal Saale Chamar Dekh, Gital Tere Ko Paise Mangne Kaa Maja Chakhate Hai. Gital Sale Teri Esi Okat Ki Tun Hamare Se Paise Mangta Hai. Hum Tujhe Aur Tere Pariwar Ko Jaan Se Maar Denge Aur Paise Mangne Ka Maja Chakha Kar Jaanvege.

4. As per complainant accused persons pushed out the complainant and his wife from the house on the road and abused publically on the road. Accused No. 1 gave slap and fists blows on the back, chest and face of the complainant. Accused No. 2 and 3 gave slap and fists blows on the chest and back of wife of complainant with the intention to affect the reputation and modesty of the complainant and his wife. A number of persons gathered there including witnesses mentioned in the list intervened and rescued the complainant from the clutches of the accused persons. But for timely intervention of said persons, life of complainant and his wife could have been saved. However, while leaving the place of occurrence, accused persons threatened to kill the complainant and his wife in future and also abused complainant and his family members.

5. Complainant approached the local police but despite regular visits, police did not take any action and as such complaint before the Court.

After hearing learned Counsel for the appellant, I am of the opinion that the present appeal deserves to be dismissed.

3. Learned trial Judge rightly held that the complainant had failed to establish that he belonged to Scheduled Caste community and further had failed to establish that the accused persons did not belong to Scheduled Caste community. The complainant had failed to establish any certificate issued to him qua his caste. The occurrence had taken place on 8.6.2003, whereas, the complaint was filed on 1.10.2003 after a long delay. Learned trial Judge rightly held that delay in the facts and circumstances of the present case was fatal to the case of the complainant. It has been further observed by learned trial Judge that the occurrence had taken place in the house of the complainant. Hence, it could not be said that the occurrence had taken place in a public place or in public view to attract the offence punishable under the Act.

4. Mali Devi, who had allegedly suffered injuries, had not been examined by the

complainant and hence, the accused persons could not be held guilty of an offence u/s 323 IPC. It has further been observed by the learned trial Judge that the words allegedly used by the accused had not been described in the same terms by the witnesses examined by the complainant. Hence, the reasons given by the trial Court, while acquitting respondents No. 2 to 4, are sound reasons.

5. Their Lordships of the Supreme Court in Allarakha K. Mansuri v. State of Gujarat 2002 (1) RCR (Criminal) 748, held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

6. A Division Bench of this Court in State of Punjab v. Hansa Singh 2001 (1) RCR (Criminal) 775, while dealing with an appeal against acquittal, has opined as under:

We are of the opinion that the matter would have to be examined in the light of the observations of the Hon"ble Supreme Court in Ashok Kumar Vs. State of Rajasthan, , which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a misreading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.

7. Learned Counsel has failed to show any mis-reading of evidence on record. No ground is made out to grant leave to file an appeal.

8. Accordingly, this application is dismissed.