

(2014) 04 SHI CK 0101
In the High Court Of Himachal Pradesh
Case No : Criminal A. No. 265 of 2013

State of Himachal Pradesh	Vs	APPELLANT
Satpal Notiyal and Others		RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313 — Penal Code, 1860 (IPC) - Section 34, 451, 506 — Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3(1)(x)

Citation : (2014) 04 SHI CK 0101

Hon'ble Judges : Rajiv Sharma, J.

Bench : Single Bench

Advocate : Pramod Thakur, Addl. Advocate General, Neeraj K. Sharma and Vivek Singh Attri, Dy. Advocate Generals, for the Appellant; Ramakant Sharma and J.R. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—This appeal is directed against the judgment dated 12.7.2012 rendered by the learned Special Judge-I, Sirmaur District at Nahan in Sessions Trial No. 33-ST/7 of 2010, whereby the respondents/accused persons (hereinafter referred to as the "accused persons" for the sake of convenience), who were charged with and tried for offences punishable under Sections 451, 506/34 of the Indian Penal Code read with Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have been acquitted.

2. The case of the prosecution, in a nutshell, is that on 19.9.2009, PW1 Kedar Singh Jindan lodged a complaint Ext.PW1/A before the SHO Police Station, Shillai stating therein that the accused person came to his house and threatened him. They tried to lower down his image by uttering word "KOLI". They also snatched identity cards of students of his school. They also disrupted morning prayers of the school. FIR, Ext.PW3/A was registered. The matter was investigated by the

police. The challan was put up in the court after completing all the codal formalities.

3. The prosecution examined as many as seven witnesses to prove its case. The accused persons were examined under Section 313 Cr.P.C.. They denied the case of the prosecution and claimed innocence. The learned trial court acquitted the accused persons vide judgment dated 12.7.2012, as stated hereinabove. Hence, this appeal.

4. Mr. Parmod Thakur, learned Additional Advocate General, has vehemently argued that the prosecution has proved its case against the accused persons.

5. M/s. Ramakant Sharma & J.R. Sharma, learned Advocates, have supported the impugned judgment dated 12.7.2012.

6. I have heard learned counsel for the parties and have also gone through the impugned judgment and record carefully.

7. PW1, Kedar Singh Jindan, deposed that he was running a private school under the name and style of Adarsh Vidhayalya at Shillai since 2007. On 19.9.2009, at about 8.30 A.M., the accused persons came to his school and snatched identity cards from the students. They also threatened him. They misbehaved with him. They also called him "KOLINDA, CHURA, DHADE" and went away from the spot. On 12.9.2009, the accused persons had also threatened him and told him that the scheduled castes people were not allowed to use the way. Sunder Singh and Hoshiyar Singh also came on the spot and intervened in the matter. The incident dated 19.9.2009 was also witnessed by Suresh, Teacher of his school and his wife Hem Lata. In cross-examination, he deposed that there were nine teachers in his school at that time. Sunder Singh, who witnessed the incident on 12.9.2009 was not related to him. He admitted that Hoshiyar Singh and Sunder Singh belonged to his caste. He had not reported the incident dated 12.9.2009 to the Police. On 19.9.2009, only accused Satpal had come to his school and abused him.

8. PW2, Hoshiyar Singh, deposed that on 12.9.2009, at about 12.00 noon, on the main road, near Tehsil Office Shillai, the accused persons were abusing Kedar Singh by calling him "KOLI". Sunder Singh also reached there. They intervened and separated Kedar Singh. In cross-examination, he deposed that Sunder Singh had also come to the spot when he got separated them. On 19.9.2009, at 8.30 A.M., he also went to school of Kedar Singh. The accused Satpal Notiyal created nuisance in the school.

9. PW3, S.I. Beeru Ahmed deposed that on 19.9.2009, on the basis of complaint, Ext.PW1/A, FIR, Ext.PW3/A was registered at Police Station Shillai.

10. PW4, Suresh, deposed that on 19.9.2009, he was present along with other staff members and students in the school. At about 8.50 P.M., accused Satpal Notiyal came to the school while morning assembly was going on and started abusing the Managing Director, Kedar Singh Jindan by calling him DEDH,

CHAMAR and CHURAH. He also obstructed morning assembly of the school. In cross-examination, he deposed that the witness Hoshiyar Singh was not present in the school at that time. He belongs to scheduled caste category.

11. PW5, Khazan Singh, deposed that on the basis of application, Ext.PW5/A, he issued certificate Ext. PW5/B with respect to caste of Kedar Singh.

12. PW6, Virender Thakur, deposed that he carried out the investigation of the case. On 23.9.2009, he visited the spot and prepared the site plans, Ext.PW6/A and Ext.PW6/B. He recorded statement of Sunder Singh vide Ext.PW6/C. He also obtained caste certificate of Kedar Singh vide Ext.PW5/B.

13. PW7, Sunder Singh deposed that on 12.9.2009, he had not gone to the office of Kanungo Shillai nor any incident took place in his presence. He was declared hostile. In cross-examination conducted by the Public Prosecutor he denied the suggestion that the accused started saying to Kedar Singh Jindan that "HAM TO KOLIYON KO YAHAN KHADEY BHI NAHI HONE DETE" and abused him. He also denied that at around 12.00 noon, Hoshiyar Singh also reached there.

14. PW1, Kedar Singh Jindan, in examination in chief, deposed that on 19.9.2009, at about 8.30 A.M., Satpal Notiyal and his elder brother Dalip Singh Notiyal came to his school and snatched identity cards from the students. However, in cross-examination, he deposed that only accused Satpal Notiyal had come to his school on 19.9.2009. He also deposed that PW7 Sunder Singh had witnessed the incident dated 12.9.2009. PW7 Sunder Singh had categorically stated that neither he was present on the spot nor any incident took place in his presence on 12.9.2009. PW1, Kedar Singh Jindan, did not lodge any FIR pertaining to incident dated 12.9.2009. According to him, nine teachers were present in the school at that time. However, none of them has been cited as witness. According to PW2 Hoshiyar Singh, on 12.9.2009, Sunder Singh had also come to the spot and got separated the complainant and the accused persons. He also witnessed the incident dated 19.9.2009 in the school. As noticed hereinabove, PW7 Sunder Singh deposed that he was not present on the spot on 12.9.2009. PW4, Suresh Kumar, deposed that PW2 Hoshiyar Singh was not present in the school on 19.9.2009. In the complaint, Ext. PW1/A filed by the complainant, PW1 Kedar Singh Jindan, it is not stated that Hoshiyar Singh and Suresh Kumar were present on the spot. There are material contradictions, inconsistencies and embellishments in the prosecution witnesses. Learned trial court has correctly appreciated the evidence and there is no reason for the Court to interfere with the well-reasoned judgment delivered by the learned Special Judge. The prosecution has failed to prove the case against the accused persons.

15. Accordingly, in view of the discussion and analysis, made hereinabove, there is no merit in the appeal and the same is dismissed. The bail bonds furnished by the accused persons are ordered to be discharged. Pending application(s), if any, also stand disposed of.