

Kamaljit Vs. State of H.P.

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Court : Himachal Pradesh

Decided On : Jul-22-2009

Reported in : 2009(2)ShimLC304

Judge : Surjit Singh, J.

Appellant : Kamaljit

Respondent : State of H.P.

Disposition : Appeal dismissed

Judgement :

Surjit Singh, J.

1. Appellant is aggrieved by the judgment, dated 23rd November, 2002, of learned Special Sessions Court, Hamirpur, whereby he has been convicted of offence, under Section 3(x) and (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs. 25,000, with an order that on realization of the amount of fine, a sum of Rs. 21,000 shall be paid, by way of compensation to the victim of the offence, namely PW-1 Mukhtiari Devi.

2. Case of the prosecution, as per evidence on record, may be stated thus. PW-1 Mukhtiari Devi was working as a Teacher in an Anganwari school. The school also

used to provide cooked food to pregnant women of the area, besides attending upon the tiny-tots of the area. On 2nd February, 1998, appellant went to the school and enquired as to what had been cooked that day. He was told that Khichdi would be prepared. Appellant thereafter kept roaming around the school and would occasionally leer at PW-1 Mukhtiari Devi. After some time when asked why he was roaming about, around the school, the appellant hurled abuses on Mukhtiari Devi. In the evening, PW-1 Mukhtiari Devi informed her husband Chuni Lal about the incident. Next day, her husband accompanied her to the school and after leaving her there returned. Around 11 or 11.30 a.m., the appellant went to the school. When PW-1 Mukhtiari Devi objected to his visit and asked him not to enter the school, between 10 a.m. and 2 p.m., he called her a Chamari and said which Officer had authorized her, a Chamari by caste, to occupy teacher's chair. He also said that he would remove her clothes and make her to walk to her residence stark naked. Then he took out a Chappal, which he was wearing and dealt 4-5 blows on the head of PW-1 Mukhtiari Devi. In the meanwhile, mother-in-law of PW-1 Mukhtiari Devi, namely Amriti Devi (PW-3) came there, with an infant of Mukhtiari Devi to get her breastfed. On seeing the appellant hitting her daughter-in-law, she asked him why he was indulging in such an act, he is alleged to have dealt a few blows of Chappal on the head of Amriti also. PW-2 Nirmala Devi, who used to assist PW-1 Mukhtiari Devi, in running the Anganwari, was not present at that time, as she had been deputed to leave a child at his place, as he had been crying. On return, she saw Mukhtiari Devi crying. On enquiry, Mukhtiari Devi told her that she had been beaten up, with a Chappal, by the appellant and had also been insulted by being called Chamari and being told that she being a Chamari could not sit on the chair of school teacher.

3. Matter was reported to the Deputy Commissioner, vide complaint Ex. PW-1/B, by PW-1 Mukhtiari Devi on the next following day. Deputy Commissioner marked it to Deputy Superintendent of Police, Head Quarters, for taking strict action in the matter. On the same day, complaint was also lodged with Pradhan of the Panchayat. Panchayat summoned the appellant for 7th February, 1998, but he did not appear. Panchayat then forwarded that complaint to the police. The same is Ex. PW-1/A.

4. Police registered a case, under Section 3(x) and (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and investigated the same. On completion of investigation, challan was filed in the Court of Chief Judicial Magistrate, who, after complying with the requirement of Section 207 of the Code of Criminal Procedure, committed the same to the specially notified Sessions Court. Appellant was charged with offences, under Section 3(x) and (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to which he pleaded not guilty. So, he was put on trial.

5. Prosecution examined Mukhtiari Devi, the victim, as PW-1, her mother-in-law Amriti Devi as PW-3, her assistant Nirmala Devi as PW-2 and two other witnesses, namely Barfi Ram (PW-5) and Rattan Chand (PW-6) to prove the charge.

6. Appellant took the plea that complainant Mukhtiari Devi had bungled in distribution of food to the pregnant ladies of the area and he had made a complaint against her and the present case was a counterblast to that complaint, lodged by him. He put suggestions to PW-1 Mukhtiari Devi, her mother-in-law Amriti Devi(PW-3) and other witnesses, including the Pradhan of the Panchayat, PW-4 Meena Kumari, but all of them denied the same. Appellant did not lead any evidence to prove this plea. He did not take this plea even in his own statement, under Section 313 of the Code of Criminal Procedure. In his statement, he stated that he had been falsely implicated, because some land dispute was going on between him and Mukhtiari Devi. He did not utter even a word about the plea suggested to Mukhtiari Devi and other witnesses.

7. Trial Court held the appellant guilty and convicted and sentenced him, as aforesaid.

8. I have heard the learned Counsel for the appellant, as also the learned Assistant Advocate General and gone through the evidence.

9. PW-1 Mukhtiari Devi very categorically stated in her statement, on oath, in the Court, that on 2nd February, 1998, around 11 a.m., when she was teaching the children, appellant came there and asked as to what was being cooked and despite her having told him that Khichdi was being cooked, he did not go and kept

roaming around the school and leering at her. She stated that on return to her place, she informed her husband, who advised her to ignore the appellant. She further stated that on the next following day, i.e. on 3rd February, 1998, one of the children started crying. So, she deputed her assistant PW-2 Nirmala Devi to take that child to his house and in her absence, around 11 or 11.30 a.m., appellant came and when she asked him not to visit the school during working hours, i.e. from 10 a.m. to 2 p.m., he took out Chappal from one of his feet and hit her 4-5 times on the head and proclaimed which Officer had authorized her, a Chamari by caste, to sit in the chair of teacher. She stated that in the meanwhile her mother-in-law PW-3 Amriti Devi came there, with her breast-feeding child to it breastfed and when she asked the appellant why he was beating her daughter-in-law, the appellant dealt a few blows of Chappal on her head too and one of the blows even hurt her child whom her mother-in-law was holding at that time. Her mother-in-law PW-3 Amriti Devi fully corroborated her testimony. She stated that when she went to the school, on the relevant date, with the child of Mukhtiari Devi to get the child breastfed, she saw the appellant hitting Mukhtiari Devi on her head with Chappal and when she objected to it she too was dealt a few blows of Chappal on her head and one such blow even hurt the child near eye.

10. Testimony of PW-1 Mukhtiari Devi and PW-3 Amriti Devi is corroborated by PW-2 Nirmala Devi. She stated that appellant had visited the school on 2nd February, 1998 and asked as to what was being cooked and he was told that Khichdi was being cooked. She stated that she went to the kitchen and did not know what happened thereafter. As regards the incident of 3rd February, 1998, she stated that around 11 a.m., she went to leave a crying child at his place and when she returned around 12.30 in the noon, she found PW-1 Mukhtiari Devi crying and on enquiry, she told that the appellant had come to the school and had hit her with a Chappal and had also insulted and humiliated her by saying who had authorized her to sit in the teacher's chair, despite her being a Chamari.

11. Testimony of PW-1 Mukhtiari Devi and PW-3 Amriti Devi is further corroborated by PW-5 Barfi Ram and PW-6 Rattan Chand. PW-5 Barfi Ram stated that he had gone to village Sour, where the incident had taken place, to buy sugar, when he saw the appellant calling PW-1 Mukhtiari Devi a Chamari and hitting her

with a Chappal. He also stated that in the meanwhile PW-3 Amriti Devi came there, with a child in her lap and when she questioned the appellant why he was beating her daughter-in-law, he dealt a few blows of Chappal to her also. PW-6 Rattan Chand stated that he saw the incident when he was returning with a bundle of grass. He stated that the appellant called PW-1 Mukhtiari Devi a Chamari and said that he would remove her clothes and then took out his Chappal and dealt 4-5 blows on her head and in the meanwhile mother-in-law of PW-1 Mukhtiari Devi also came there and on her asking why he was beating Mukhtiari Devi, he dealt a few blows of Chappal to Amriti Devi also.

12. Testimony of PW-1 Mukhtiari Devi and PW-3 Amriti Devi is further corroborated by complaint Ex. PW-I/B, which Mukhtiari Devi made to the Deputy Commissioner, Hamirpur, on the next following day, as also the complaint Ex. PW-1/A, which was lodged with the Panchayat.

13. All the witnesses, including the Pradhan of the Panchayat PW-4 Meena Kumari, who was examined to prove complaint Ex. PW-1/ A, denied the suggestions put to them in the cross-examination by the appellant that the appellant had lodged a complaint against Mukhtiari Devi that she had bungled in the distribution of food to the pregnant women of the area, in her capacity as Incharge of Anganwari. Appellant did not lead any evidence to prove this plea. Even in his own statement, under Section 313 of the Code of Criminal Procedure, he did not claim that he had lodged any complaint with any authority against Mukhtiari Devi. He stated that he had been falsely implicated, because there was a land dispute between him and Mukhtiari Devi. However, no such suggestion was thrown either to Mukhtiari Devi or to any other witness nor was any evidence led, indicating that there was any such dispute.

14. Prosecution proved that Mukhtiari Devi belongs to a Scheduled Caste. It proved a certificate, Ex. PW-11/A, issued by the Gram Panchayat, according to which Mukhtiari Devi belongs to Chamar caste, which is one of the Scheduled Castes. Prosecution also proved that the appellant belongs to Rajput caste, which is a non-Scheduled Caste.

15. The above discussed evidence fully establishes the charge against the appellant and, therefore, his conviction for the offence, under Section 3(x) and (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, does not call for any interference.

16. Crime committed by the appellant is of very serious nature. He has not only insulted and humiliated a person belonging to Scheduled Caste, publicly, but has also challenged the authority of the administration to appoint persons belonging to Scheduled Castes to public offices and thereby allowing them to sit in chairs. The conduct of the appellant demonstrates how contemptuous his attitude is towards co-citizens, belonging to lower castes. Therefore, the sentence of three years rigorous imprisonment and fine of Rs. 2,5000 awarded by the trial Court, also does not call for interference.

As a result of the above discussion, appeal is dismissed.

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