

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No. M-15160 of 2012 (O&M)
Date of Decision: 02.11.2015.**

Jiu and others

.....Petitioners

Vs.

Ramesh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.N.Lohan, Advocate
for the petitioners.

None for respondent No. 1.

Ms. Dimple Jain, AAG, Haryana.

.....

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of complaint No. 20 dated 15.4.2011 under Section 3 (i) (iv) and (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Act' for short), and all the subsequent proceedings arising therefrom including the summoning order dated 1.2.2012 (Annexure P-6).

The contents of the complaint (Annexure P-1) read as under:-

“The complainant informs and complaints that killas no. 34/2-3-4-5-6 measuring 39 kanals 16 marlas surplus land of village Bhaini Bhairon, P.S. Meham, District Rohtak was allotted to Om Parkash father of the

complainant on 3.11.1977 by SDO (C)/Allotment authority, Rohtak for a sum of Rs. 4608.16P and possession was delivered on 14.6.1980 as per Rapat Roznamcha Patwari No. 441. Cost of the land had been deposited. Sh. Om Parkash a Scheduled Caste expired on 10.7.1985. The accused persons Jiu, Ajmer Singh, Jai Bhagwan, Satbir and Maldev Caste Jats residents of village Bhaini Bhairon P.S. Meham, District Rohtak cultivated and occupied the allotted land of the complainant wrongfully and forcefully during Kharif 2009 and Rabi 2010 to Kharif 2010 and also the allotted land was got transferred in their names. Legal action be taken against the respondents.”

Learned counsel for the petitioners has submitted that, in fact, petitioners were big land owners and their land had been declared surplus. Later vide order dated 19.8.1980 (Annexure P-3), it was held that the petitioners were small land owners and their land was exempted from surplus pool. Hence, the complaint in question was liable to be dismissed.

None has appeared on behalf of respondent No. 1.

After hearing the learned counsel for the petitioners, I am of the opinion that the instant petition deserves to be allowed.

Sections 3 (1) (i) (iv) and (v) of the Act read as under:-

3. (1) Whoever, not being a member of a Scheduled Caste or a Scheduled for offences of Tribe,-

(i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or

obnoxious substance;

(ii) *x x x x x*

(iii) *x x x x x*

(iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

(v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water.”

In the present case, the land belonging to the petitioners was declared surplus. However, vide order Annexure P-3, the land belonging to the petitioners was exempted from surplus pool. A perusal of Annexure P-3 further reveals that it had been further ordered that the land had been allotted to the allottees but they not taken possession of the same so far. The allotment was ordered to be cancelled. Learned counsel for the petitioners, during the course of arguments, has submitted that the order Annexure P-3 has gained finality. Thus, in the present case, it cannot be said that the petitioners were causing any harassment to the complainant on account of his being the member of the scheduled caste. Rather, the land belonging to the petitioners was initially declared surplus but later the same was exempted from surplus pool. As per the order Annexure P-3, although, the land had been allotted to the allottees but possession had not been handed over to them. Hence,

continuation of criminal proceedings against the petitioners would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. Complaint No. 20 dated 15.4.2011 under Section 3 (i) (iv) and (v) of the Act and all the consequential proceedings, arising therefrom, including the summoning order dated 1.2.2012 (Annexure P-6) are quashed.

**(SABINA)
JUDGE**

November 02, 2015
Gurpreet