

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of decision :29.01.2015

1. CRM-M No. 26345 of 2014 (O&M)

Ramandeep Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

2. CRM-M No. 30483 of 2014(O&M)

Ashok Tuli and others

....Petitioners

versus

State of Punjab

.... Respondent.

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Navjot Singh, Advocate

for the petitioner in CRM-M No. 26345 of 2014.

Mr.Rahul Bhargava, Advocate

for the petitioners in CRM-M No. 30483 of 2014.

Ms.Amarjit Kaur Khurana, Addl. AG, Punjab..

AJAY TEWARI, J. (Oral)

This order shall dispose of the above mentioned two petitions
since they both have arisen out of a common FIR.

The aforesaid petitions have been filed for quashing of FIR No.
484 dated 2.12.2012, registered at Police Station Civil Lines, Amritsar

under Sections 3,4, 5 of The Punjab Prevention of Defacement of Property Act, 1997(hereinafter referred to as 'the Act' for short) and all subsequent proceedings arising therefrom.

The allegation is that on the fateful day an information was received that the petitioner was pasting photographs of the then Prime Minister next to the photograph of the Chief Minister of Punjab on 108 Ambulance.

The first contention of learned counsel is that in the definition clause of the Act, the definition of the word property would not include an Ambulance. The said definition is in the following terms:-

- (a) "defacement" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever and the word "deface" shall be construed accordingly;
- (b) "property" includes any building, hut, structure, wall, tree, fence, post, pole or any other erection;
- (c) "writing" includes decoration, lettering, or ornamentation, etc., produced by stencil.

Learned Addl.AG has not been able to refute this argument.

The second argument of learned counsel was that the action of the petitioner would not come within the ambit of the phrase 'defacement'. He has relied upon a judgment of Delhi High Court in **T.S.Marwaha and others v. State** reported as 2008(4) JCC 2561 wherein it was held as follows:-

“3. A bar look at section 3(1) goes to show that the offences committed therein would be punishable only if the defacement is done in respect of property in public view by writing or marking with ink, chalk, paint or any other material. There is nothing in the charge sheet filed against the petitioners to indicate that any property was defaced by writing or marking with ink, chalk, paint or an other material. The only allegation is

that the banner was put on an electric pole. Mere putting of the banner will not get covered by Section 3(1) of The West Bengal Prevention of Defacement of Property Act, 1976. It is true that Section 2(aa) defines defacement which includes impairing or interfering with the appearance beauty, damaging, distinguishing, spoiling or injuring in any other way whatsoever, but Section 3(1) is not all embracing and it refers only such type of defacement for the purpose of prosecution as is done by writing or marking with ink, chalk, paint or any other material. Having regard to the above, I am of the view that the learned Metropolitan Magistrate went wrong in passing the order dated March 7, 2005. For the foregoing reasons, the order dated March 7, 2005 and consequently the charge framed against the petitioners are quashed.”

It is not disputed that the connotation of the word defacement in The West Bengal Prevention of Defacement of Property Act, 1976 is the same as that of the Act. Learned Addl.AG is not in a position to cite any contrary judgment.

In these circumstances the petitions are allowed and FIR No. 484 dated 2.12.2012, registered at Police Station Civil Lines, Amritsar under Sections 3,4, 5 of The Punjab Prevention of Defacement of Property Act, 1997, and all subsequent proceedings arising therefrom are quashed against the petitioners.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)

JUDGE

January 29, 2014

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