

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**Crl. Misc. No. M-43557 of 2013
Date of decision : 09.04.2015**

Ramesh and others

..... Petitioners

versus

Yashbir Singh @ Asbir Singh and another

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

**Present: Mr. Raman Chawla, Advocate
for the petitioners**

**Mr. Parmod Parmar, Advocate
for respondent No. 1**

Mr. S.S. Pannu, DAG Haryana

ANITA CHAUDHRY, J.

The petitioners have preferred this petition for quashing of the complaint filed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the summoning order dated 05.06.2013 and the order dated 11.11.2013 passed in revision by Additional Sessions Judge, Bhiwani.

Learned counsel for the petitioners contends that the occurrence is said to have taken place in a liquor vend which is not a public place nor there was any intentional insult and merely calling a person by a caste would not constitute the offence under Section 3(1) (x) of the Act and in the absence of any of the ingredients, the summoning order, revisional order and the complaint should be quashed. It was urged that the only witness to the occurrence is the

son and nephew of the complainant and there is no medical record to corroborate the statement and the summoning order has been passed without application of mind and the allegations do not constitute any offence. He had placed reliance on ***Mukesh Kumar Saini vs. State (Delhi Administration), 2002(1) RCR(Criminal) 242, Kuldeep Raj Mahajan vs. Hukam Chand, 2008(1) RCR (Criminal) 370, Jai Parkash and others vs. State of Haryana and another, 2011(3) RCR(Criminal) 217, Dr. Onkar Chander Jagpal and another vs. Union Territory, Chandigarh and another, Rajinder Kumar vs. State of Haryana, 2002(4) RCR(Criminal) 245 and Amrik Singh and others vs. State of Punjab and another, 2011(5) RCR(Criminal) 646.***

Learned counsel appearing for the respondents had urged that the accused had been summoned and charge had been framed and the petitioners had filed a revision against the summoning order which had been dismissed and the case is now fixed for final arguments for 20.04.2015. It was urged that the arguments sought to be raised would be a matter of evidence and the trial Court has to see and it would be a question of fact whether the vend is a public place or that the incident took place inside the room or in public view.

The circumstances leading to the filing of the complaint at the behest of Yashveer needs to be noticed briefly. The complainant belongs to a scheduled caste category while the accused belong to Jat and Kumhar caste. One of the petitioners is a resident of the same village as the complainant. The allegations are that all the

accused knew that the complainant was a Harijan. The complainant's son had committed suicide leaving a suicide note regarding which an FIR was registered by the complainant against Prithvi Singh and some other persons. The allegations were that accused were helping Prithvi Singh and were threatening the complainant and were asking him to close the proceedings. They asked him to leave the village. The complainant had alleged that in the last plan he was the Sarpanch of the village. The brother of accused No. 1 and relative of accused Nos. 2 and 3 were involved in taking illegal possession of the panchyat land, due to which accused were nursing a grudge against the complainant and were finding an opportunity to teach him a lesson.

On 04.11.2011, the complainant and her son were returning from the Court, on a motorcycle. When they were near the liquor vend, one of the persons signaled them to stop and told him that the Panchayat was sitting and were calling them. The complainant was asked to drop the proceedings and take back the case. The complainant refused upon which the accused caught hold of him and abused him intentionally and told him to leave the village and that they would not allow them to live in the village. The allegations are that they forcibly removed the clothes of the complainant. The son of the complainant tried to intervene but was slapped. The incident is said to have been witnessed by Rajesh, resident of village Dariyapur. The complainant had alleged that the incident was reported to the police but they did not take any action as one of the accused was the liquor contractor and influential.

While appreciating the respective stand taken by the parties, it is to be first seen whether the inherent powers can be exercised by this Court. A perusal of the facts show that there is a reference that the petitioners were aware that complainant belonged to the scheduled caste. There are allegations that utterances were made which were intentional insults. The question whether the incident took place within public view or inside the room will have to be tested and tried by the Court. The powers under Section 482 Cr.P.C. are inherent powers which are to be exercised as an exception. There are three circumstances under which the inherent jurisdiction can be exercised are :-

- (i) To give effect to an order under the Code.
- (ii) To prevent the abuse of process of Court.
- (iii) To otherwise secure the ends of justice.

Coming to the allegations made by the complainant at this stage, the accusation as such can not be ignored and the proceedings in relation to the allegations have to continue against the petitioners and the accused before the competent Court. The case does not fall under any of the categories indicated by the Apex Court in ***State of Haryana and others vs. Chaudhary Bhajan Lal and another, AIR 1999 Supreme Court 604.***

While exercising jurisdiction under Section 482 Cr.P.C., this Court is not required to appreciate the evidence to conclude whether the evidence that shall be led by the complainant would be sufficient or not for convicting the accused. I find that it is not a fit

case for quashing the complaint or subsequent orders passed by the
Courts below.

The petition is dismissed.

April 09, 2015

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**(ANITA CHAUDHRY)
JUDGE**