

THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRR No.2758 of 2010 (O&M)
Decided on : 23.02.2015

Labh Singh

... Petitioner

Versus

Darshan Singh and others

... Respondent

CORAM : HON'BLE MR. JUSTIC KULDIP SINGH

Present : Ms.Tarun Preet Kaur Advocate for
Mr.Jasbir Rattan, Advocate for the petitioner.
Mr.Anurag Arora, Advocate for respondent No.1.

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Kuldip Singh , J. (Oral)

CRM No.52851 of 2010

There is delay of 29 days in filing the present revision petition.

For the reasons mentioned therein, application is allowed.

Delay of 29 days in filing the revision petition is condoned. CRM stands disposed of.

CRR No.2758 of 2010

Facts of the case are being taken from the judgment dated 07.06.2010, passed by learned Special Judge, Sangrur, which reads as under:-

“1. Darshan Singh had brought instant complaint, instituted otherwise than on a police report alleging that Jangir Singh, a Ramdasia by caste and his father, had borrowed wheat from accused Labh Singh and Gurdial Singh, Jat Sikhs, prior to 26.07.2007. When Jangir Singh went to the house of the accused to return wheat the accused not only refused to

accept wheat from him saying that since Jangir Singh was a Ramdasia/Kumhar by caste they cannot keep the wheat being given by him. Jangir Singh offered the accused to pay for price of the wheat. Jangir Singh disclosed it to the complainant and his nephew Lakhwinder Singh a few days prior to 26.05.2007. It is further alleged that on 26.05.2007 Jangir Singh was going from his house towards bus stop, Mullowal with the complainant with Darshan Singh and Inder Singh following him a little behind that at about 1 p.m. that all the three accused, who were armed with sticks (soties) accosted Jangir Singh and insulted him in the name of his caste by calling him "Kutta Chamiar" who needed to be taught a lesson for defaming them by offering wheat. Accused Ajaib Singh wrongfully restrained Jangir Singh from moving further where after accused Labh Singh gave a blow with his stick on the left parietal region of head of Jangir Singh followed by a blow with his stick by Ajaib Singh on the left cheek of Jangir Singh. He fell down on receiving these injuries. Ajaib Singh twisted body of the complainant with the help of his stick. All of the three accused gave blows with their respective sticks on the back of Jangir Singh. The complainant and Lakhwinder Singh rushed towards Jangir Singh raising clamour of Namaro, Na-maro. Jangir Singh died at the spot on account of the injuries so given to him. The matter was reported to the police who arrived at the spot at 2 p.m., got the dead body snapped and got it subjected to postmortem. However, statement of the complainant was not properly recorded by the police and no case under Section 302/34 and Sections 3 and 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered but only a case under Section 304 of the Indian Penal Code was lodged. The matter was reported by the complainant to Punjab State Human Rights Commission, Chandigarh as well.

It comes out that learned Judicial Magistrate, 1st Class, Dhuri after recording the preliminary evidence dismissed the complaint declining to summon the accused to stand the trial, primarily on the ground that the complainant did not mention any real motive for the accused to cause injury to the deceased. It was held that only interested witnesses were examined, and there is improvement

regarding weapon of offence i.e. Soti (Stick).

The complainant took the matter before the court of Special Judge, Sangrur. Learned Special Judge, Sangrur after noticing the grounds on which the complaint was dismissed, made the following observations in para 10 of the judgment:-

“As held in Mohinder Singh Versus Gurnam Singh, AIR 1992 SC 1984 during the course of inquiry under Section 202 Cr.P.C., the officer, has to satisfy himself simply on the evidence adduced by the prosecution to see as to whether prima- facie case is made out so as to put the accused on regular trial and at stage no detailed inquiry is called for nor the court is to do into the question of sufficiency of evidence for conviction. In Lily High Purchase Versus Darshan Lal 1997(1) RCR (CrL.) 581, it was laid down that when a man files a complaint and supports it by oath rendering himself to prosecution and imprisonment if it is found false, he is entitled to be believed that the stage of Section 202 Cr.P.C. unless there is some apparent reason for disbelieving him and he is entitled to have the person against whom he has filed the complaint being brought before the court and tried.”

I have heard learned counsel for the petitioner and perused the file record.

After considering the facts and circumstances of the case, I tend to agree with the view taken by the learned Special Judge, Sangrur. In this case, learned Judicial Magistrate, 1st Class, Dhuri has not recorded any cogent finding with regard to applicability of the relevant provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Learned Judicial Magistrate, 1st Class, Dhuri passed the order as if the final judgment is being recorded. At the summoning stage, the court is to satisfy itself, whether any prima facie case is made out for summoning the accused. In this case, *prima facie*, injury was given by the accused on the person of complainant. I

do not agree with the finding of magistrate that injury on the face of the deceased could not be caused by soti (stick).

The mere fact that deceased died because of the heart attack, does not mean that no offence is committed. The witnesses in this case are admittedly interested witnesses, but their deposition is not liable to be discarded outrightly. It is being so, there is no illegality and irregularity in the order passed by learned Special Judge, Sangrur, and the same is accordingly upheld.

The present petition is dismissed.

[Kuldip Singh]
Judge

23.02.2015
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