

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

**CRM-M-26549 of 2013
DECIDED ON: FEBRUARY 19, 2016**

Gurpreet Singh @ Vicky and others

....Petitioners...

VERSUS

State of Punjab and others

...Respondents...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Pardeep Kumar, Advocate for
Mr. A.S. Cheema, Advocate,
for the petitioners.

Mr. Varun Sharma, AAG, Punjab.

1. Whether Reporters of 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? (✓)

JASPAL SINGH, J.

Instant petition has been preferred under Section 482 of the Code of Criminal Procedure by Gurpreet Singh @ Vicky and others seeking quashing of FIR No. 209, dated 05.12.2012, under Section 3 of the Punjab Prevention of Defacement of Public Property Act, 1997 (for short, "Act"), Police Station City 1 Mansa, District Mansa and all the consequential proceedings.

2. The facts giving rise to the instant petition are that the police registered the FIR in question on the basis of a secret information

unfolding the allegations that the petitioners were trying to paste photograph of the Prime Minister of India on the 108 Ambulance in the Civil Hospital, Mansa and when they were asked to desist from doing so by the driver of the Ambulance, the petitioners started raising noise and started causing harm to the government vehicle.

3. During the course of arguments, it has emerged, which could not be denied by the learned State counsel that neither any recovery, what so ever, has been effected from the petitioners nor there is any photograph, poster or any other pasting material recovered from any of the petitioners. There is also nothing on the record that any kind of damage has been caused to the Ambulance in question.

4. The aforesaid un-rebutted facts are suggestive of the fact that there is allegation only with regard to an attempt made by the petitioners for the defacement of the Ambulance. An attempt to deface the public property is not an offence and the offence is complete only when a person defaces the public property.

5. In this context, it would be appropriate to refer Section 2(a) of the Act, which reads as under:-

(a) "defacement" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring or any other way whatsoever and the word "deface" shall be construed accordingly;

6. A glance at the aforesaid provision makes it crystal clear that an attempt to deface the public property is not an offence and in such

situation, Section 3 of the Act cannot be attracted. Moreover, the entire case of the State depends upon the statements of Tarsem Singh, Driver and Harjinder Singh, Emergency Medical Technician of 108, Emergency Ambulance, recorded during investigation but from their statements also, it is only an attempt alleged to have been made by the petitioners to deface the Ambulance. So, in such situation, the report under Section 173 (2) Cr.P.C. has been presented, which is itself no ground to disallow the instant petition because the existence/pendency or continuation of proceedings of FIR itself is nothing but an abuse of the process of law.

7. In the light of what has been discussed above, the present petition is allowed and FIR No. 209, dated 05.12.2012, under Section 3 of the Act, Police Station City 1 Mansa, District Mansa and all the consequential proceedings arising therefrom are quashed qua the petitioners.

FEBRUARY 19, 2016
sonika

(JASPAL SINGH)
JUDGE