

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29350-2016

Date of Decision:- 24.09.2016

Vidya and another

....Petitioners

Versus

Madan Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. S.S. Goraya, Advocate
for the petitioners.**

RITU BAHRI, J. (Oral)

This is a second petition under Section 482 Cr.P.C. for quashing of impugned order dated 19.03.2015, passed by learned Additional Sessions Judge, Ludhiana in Criminal Revision Petition No.73 of 2013 (Annexure P-3) filed by respondents, by which the summoning order dated 04.05.2012 (Annexure P-2), passed by JMIC, Ludhiana, summoning the respondents as accused has been aside.

Briefly the facts of the case are that a complaint was made by complainant Vidya and her husband Amarjit Singh under Sections 376, 323, 324, 506 and 509 IPC and Sections 3 and 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, against Jaspal Singh alias Ruby and Neki sons of Madan Lal. It was alleged in the complaint that the complainants belonged to scheduled caste community and weaker section of

their residence opposite to their house. On 29.06.2010 at about 1.00 PM, when complainant No.1 was alone in her home, Madan Lal-accused No.1 forcibly entered in her house and bolted the room from inside. He used filthy language and threatened to kill complainant No.1. Thereafter, accused no.1 forcibly committed rape upon her and left the house by giving threats. Initially, complainants did not disclose the said occurrence to anyone. Later on, the complainants reported the matter to the police by moving a complaint on 08.06.2010 through complainant No.2. Complainant No.2 again sent a complaint to the Police Commissioner, Ludhiana on 12.06.2010, which was referred to Additional Deputy Commissioner of Police, City- 4, Ludhiana. Complainant No.2 was attacked by family members of accused No.1 on 29.06.2010 and abused her in the presence of witnesses, namely, Shamsher Singh, Jaswinder Kaur, Jasbir Singh, Major Singh, Ranjit Kaur etc. Complainant No.2 was medico-examined by doctor at Civil Hospital, Ludhiana. The matter was not properly enquired into by ADCP, City-4, Ludhiana and no proper investigation was carried out in the above said complaint. The accused were habitual offenders, who were earlier booked in FIR No.134 dated 18.05.2005 under Sections 451, 427, 148 and 149 IPC.

Complainant No.2 himself deposed as CW2 and further examined Dr. Gurbinder Kaur, Medical Officer, Civil Hospital, Ludhiana, who proved the MLR of Amarjit Singh dated 19.06.2010 as Ex.PA. Complainant No.1 Vidya deposed as CW3, who reiterated her version regarding the occurrence. Shamsher Singh was examined as CW4, who deposed about the attack on the person of complainant No.2 Amarjit Singh by the accused. Balbir Singh, CW5, deposed that the information given to

him by his brother Amarjit Singh regarding the occurrence dated 29.05.2010 and about the occurrence dated 29.06.2010. Surinderpal, CW6, deposed about the occurrence dated 29.06.2010 that he reached at the place and found Amarjit Singh bleeding and he taken Amarjit Singh to Civil Hospital, Ludhiana.

The trial Court summoned all the accused for the offences punishable under Sections 376, 323, 324, 506 and 509 IPC and Sections 3 and 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

However, on revision the revisional Court has set aside the above-said order on the ground that the revisionists have placed on record certificates issued by Tehsildar to the effect that revisionist Nos.1 to 4 are Ramdasia, which was a scheduled caste, revisionist No.5 has placed on record certificate in the name of his father Jagan Nath, who was certified to be Ramdasia caste. In view of the judgment of this Court in case **Ajay Singh Parveen and another v. State of U.T., Chandigarh, 2011 (2) R.C.R. (Criminal) 405** the accused could not be summoned where it was held that if accused belongs to schedule caste category, no offence is made out under the Act and to constitute offence under Section 3, accused should not be a member of SC/ST. Further, the role attributed to the revisionists/respondents in the present case are with regard to the incident dated 29.06.2010 on the date which the present revisionists along with accused Jaspal Singh (non-revisionist), who was alleged to be armed with iron *rod* and Neki (non-revisionist) armed with stick, gave beating to Amarjit Singh with iron *rod* and sticks. It was alleged that accused Jaspal

bleeding profusely in the head. The other accused gave stick blows and when Amarjit Singh fell on the ground, they starting beating him. As per deposition of PW1 Dr. Gurbinder Kaur, there were two injuries on the person of complainant No.2 Amarjit Singh, which are as under: -

- “1. Injury No.1 on the head, left parietal area, a lacerated wound about 1” x 0.3” skin deep.*
- 2. Injury No.2 is complaint of pain over lumbo sacral area due to alleged blows. No external mark of injuries there.”*

Both the injuries are simple in nature.

Injury No.1 has been attributed to Jaspal Singh and with regard to injury No.2, the same was in the nature of complaint of pain without any external mark.

The incident was of 29.06.2010 and the complaint was made on 12.06.2010. After the complaint was referred to ADC City IV and after inquiry he gave the opinion that the complainant party was nursing long standing grudge against the revisionists and earlier also the family of complainants had lodged an FIR No.134 dated 18.05.2015 against the family of Jaspal Singh alias Ruby, which was got compromised. As per the allegations, the assailants were armed with iron *rod* and sticks, only one injury, in the nature of lacerated wound was suffered by respondent No.2. The occurrence as per the inquiry report was held to be doubtful during the course of inquiry. Hence, the revisional Court set aside the order summoning the above-said accused in a criminal complaint on the ground that no offence under Section 3 of the Scheduled Caste and Schedule Tribe is made out, as the revisionists themselves belonged to schedule caste category and the nature of injuries did not corroborate with the allegations

keeping in view the fact that there was earlier litigation/complaints lodged against family members of Jaspal Singh i.e. FIR No.134 dated 18.05.2005.

After going hearing the learned counsel for the petitioners, after going through the record, this Court is of the considered view that learned Additional Sessions Judge, Ludhiana, has rightly appreciated the evidence in the right perspective and accordingly recorded the cogent grounds in this respect. Learned counsel for the petitioners did not point out any material/reasons, much less cogent, so as to warrant any interference in the impugned order/judgment. Such impugned order/judgment, containing valid reasons, cannot possibly be interfered with by this Court in exercise of limited jurisdiction of this Court under Section 482 Cr.P.C., unless and until, the same is illegal, perverse and without jurisdiction. Since no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioners, so, the impugned order (Annexure P-3) deserves to be and is hereby maintained in the obtaining circumstances of the case.

No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the petitioners.

In the light of aforesaid reasons, as there is no merit, therefore, the instant petition is hereby dismissed as such.

September 24, 2016
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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No