

118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43412-2016

Date of decision-05.12.2016.

Kanhaiya Lal

...Petitioner

Vs.

Savitri Devi

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Tapan Kumar Yadav, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

By filing this petition under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C') accused/petitioner seeks quashing of complaint No.7-RBT dated 21.04.2012 registered under Section 3 of the Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Act, 1989 (in short 'the Act') and Section 506 of Indian Penal Code (in short 'IPC') (Annexure P-1) and order dated 24.08.2016 passed by Chief Judicial Magistrate, Rewari whereby the accused was committed to Court of Sessions for trial (Annexure P-2) and order dated 09.09.2016 whereby the charges have been framed against the petitioner under Section 3 of 'the Act', and Section 506 of IPC.

It is contended by learned counsel for the petitioner that it is not mentioned in the complaint that the accused knew the caste of the complainant. The learned Magistrate has committed an error in committing the case to the Court of Session. As per the provisions of Sections 244 and 323 of Cr.P.C, Magistrate is duty bound to record pre-charge evidence either treating it as a summons case or warrant case and if during the course of evidence, it appears to Magistrate that the case needs to be committed to the

Court of Session in that eventuality the case could be committed and not straightway commit the case as has been done by the Magistrate in the instant case. The learned counsel contended that the order of committal (Annexure P-2) is bad in law.

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

So far as the first argument is concerned, it is mentioned by the complainant that the accused hurled abuses upon her by calling her as “Dedhni”, which implies that the accused had the knowledge that the complainant belonged to scheduled caste, as this expression is used to address the persons belonging to the castes placed at the lowest rung of the ladder in the caste hierarchy, known as untouchables, before abolition of untouchability in our society. As against the second contention, the argument is wholly misconceived. As per the provisions of Section 209 of Cr.P.C, on presentation of challan, after complying with the provisions of Section 207 of Cr.P.C, if the Magistrate on the basis of record finds that the case is triable by the Court of Session, he is required to commit the case to the Court of Session immediately. The provisions of Section 323 Cr.P.C comes into operation when in a summons case or in a warrant trial, during the course of evidence, it appears to the Court that case needs to be tried by Court of Session then it has the additional power to commit case to the Court of Session.

This Court has gone through the order dated 24.08.2016 (Annexure P-2), the trial Court recorded pre-summoning evidence.

Thereafter, the Magistrate summoned the accused under Section 3 of 'the Act' and Section 506 of IPC vide order dated 06.05.2014.

The revision filed against summoning order dated 06.05.2014, was dismissed by the Additional Sessions Judge on 11.01.2016. The Chief Judicial Magistrate, vide order dated 24.08.2016 committed the case to the Court of Session. There is no error in procedure in the order dated 24.08.2016.

This Court finds no illegality or regularity in the orders passed by the Courts below. Consequently, the present petition is dismissed. However, this order will not affect the merits of the case.

December 05, 2016
vanita

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No