

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

**CRM No.M-22348 of 2015 (O&M)
Date of Decision: October 25, 2017**

Ghisa Ram

...Petitioner

VERSUS

Sheo Singh Rana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.K.S.Dhaliwal, Advocate
for the petitioner.

Mr.Surinder Gaur, Advocate
for respondents No.1 to 6 and 8.

Respondent No.7 died.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against Sheo Singh Rana and other respondents for quashing the judgment dated 09.04.2015 passed by learned Addl. Sessions Judge, Kaithal, vide which the criminal revision filed by the accused-respondents was allowed and summoning order dated 27.05.2014 passed by learned Judicial Magistrate Ist Class, Kaithal in criminal complaint No.RBT26 of 2013 was set aside.

Notice of motion was issued. Learned counsel for respondents

No.1 to 6 and 8 as well as learned State counsel appeared and contested the

petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the record shows that Ghisa Ram, Sub Inspector, filed a complaint against Sheo Singh Rana and nine other accused under Section 3(i) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'SC&ST Act) and Section 2(i) of Prevention of Atrocities Act. The brief averments of the complaint as noted down in the summoning order dated 27.05.2014 passed by learned JMIC, Kaithal, are as under:-

“2- The present complaint has been filed by the complainant Ghisa Ram with the allegations that complainant is a member of scheduled caste and is serving in Haryana Police as Sub Inspector. On 23.8.2009, the complainant was posted as Sub Inspector/SHO P.S. Rajound. It is alleged that on 23.8.2009 FIR No.81 was registered against the accused Jaibir son of Kuldeep, Anil Kumar son of Randeep, Krishan son of Balbir, Kuldeep @ Gadli son of Lachhman Singh, Dalip Singh son of Sidhman, Pardeep son of Bahadur Singh, residents of village Narwal regarding some altercation between Rajpoot community and Sainsi community concerning the dispute of supply of water from water works by the operator Raghbir Singh @ Bhira son of Rattu Ram. In the said altercation, both the parties sustained injuries and the above named persons were arrested on 24.8.2009 in FIR No.81 dated 23.8.2009 u/s 148,149,332,353,324,506 IPC P.S.Rajound.

It is alleged that on 24.8.2009 at about 9.15 pm accused Sheo Singh, Sompal, Narender, Kuldeep Singh, Vinod, Kuldeep Singh Fauji, Mohkam and Prem came in Mela Gugamari Rajound, where the complainant was on duty. The accused persons told the complainant that Superintendent of Police, Kaithal had advised him not to arrest the accused persons for two days and they asked to release them. The complainant told them that it is not possible because all the accused persons were arrested by ESI Mohinder Singh and are confined in police lock up. At this accused persons became furious and gave abuses to the complainant in the name of his caste. They asked the complainant that the complainant is intentionally supporting the persons belonging to low caste and they said that “Shale Daid Tuje SHO Jarur Banayen Tu Neech Jati Ka Hai, Tuje SHO kis Shale NE Banaya Hai”. The whole occurrence was witnessed by ASI Raj Pal, constable Surajmal,

Rishi Pal son of Deva Ram, resident of village Sirsal, Mahi Pal son of Dharam Pal, Rajesh son of Bheel and Mangu son of Jita Ram, resident of village Rajound. Thereafter, at about 11.15 pm, complainant received a telephonic message from Police Station Rajound that Sheo Singh Rana, Kuldeep Fauji came at about 10.30 pm on 24.8.2009 alongwith other accused persons namely Som Pal @ Soma son of Lachhman, Rajesh son of Baldev Singh, Randeep son of Kadam Singh, Ram Niwas son of Om Pal, Hukam Singh son of Udhey Singh and near about 150 other persons reached at P.S. Rajound in tractor trollies armed with lathis, gandasis, dandas and bricks in seven trolleys. Som Pal and Sheo Singh Rana caught EHC Krishan Kumar by the collar and after threatening him asked him about the persons, who are in police remand. Thereafter, Soran, Panchayat member and Prem Singh started beating to EHC Krishan Kumar and called other persons by raising lalkara. They also damaged the police vehicles, thereafter, Sheo Singh Rana and other persons attacked upon the police Station and gave beatings to EHC Krishan Kumar and got released the accused persons namely Jaibir Singh, Anil Kumar, Krishan, Kuldeep, Dalip Kumar, Pardeep Kumar from police custody. When they were going back ESI Mohinder Singh, ASI Rampal, EASI Ram Pal 502, HC Sunil Kumar 837, constable Jaswant Singh 150, ASI Jaswant Singh, countable Raj Kumar, constable Suraj Mal, Ehc Hari Pal tried to convince them, but they did not listen. They asked them that if they tried to stop them then their men would kill them. Thereafter, they set on fire the police station. In this regard, FIR No.82 dated 24.8.2009 under Sections 148,149,307,506,452,186,323 IPC and Sections 3 and 4 PDPP Act was registered in P.S.Rajound. It is further alleged that accused and other persons came to the complainant in tractor trolleys and at that time Suresh Devi wife of Kuldeep Singh, resident of village Narwal fell down from the tractor trolley and crushed under the tractor trolley and died at the spot. Sheo Singh Rana had lodged false FIR bearing No.84 dated 27.8.2009 under Sections 323,342,506,302 IPC P.S. Rajound regarding the death of Suresh Devi against the complainant. Accused Vinod Kumar and Prem has also filed false application on 13.9.2009 against the complainant. Later on in the investigation conducted by DSP Kuldeep Singh, ACE Kaithal and complainant was found innocent. During course of investigation, the Investigating Officer had received large number of affidavits and statements of the villagers in favour of complainant. Moreover, on the said day, the complainant left the police station vide rapat No.20 dated 24.8.2009 at about 2.20 pm and returned back in the police station Rajound vide rapat no.19 dated 24.8.2009 at 11.01 pm. Thus, at the time of alleged occurrence, complainant was not present at the Police Station. It is alleged that since complainant is a member of scheduled caste and accused persons are members of Rajput community, therefore, they

have put forward a false and concocted story against the complainant and the complainant was falsely challaned under Sections 323,342,506 IPC by the accused persons after hatching a criminal conspiracy. Therefore, it is prayed that the accused has committed offence under Sections 3(i) (x) of SC/ST (Schedule caste of Schedule Tribes(Prevention of Atrocities) Act, 1989 and Section 2(i) of Prevention of Atrocities Act. With these submissions, it has been prayed that accused be summoned and punished accordingly.”

In preliminary evidence, complainant examined himself as CW-1, CW-2 Gheesa Ram, CW-2 Mahipal, CW-3 Rishipal, CW-4 Head Constable Kuldeep Singh and CW-5 Surajmal.

Learned JMIC, Kaithal, vide order dated 27.05.2014, summoned accused No.1 to 6, 8 and 9 to face trial for the commission of the offence under Section 3 (i) (x) of the SC&ST Act. Against the summoning order, a revision was filed by Sheo Singh Rana, Som Pal, Narender, Kuldeep Singh, Vinod, Kuldeep Fauji and Prem before the Court of Session and learned Addl. Sessions Judge, Kaithal, vide impugned judgment dated 09.04.2015, after hearing the parties, accepted the revision petition, set aside the summoning order and directed learned lower Court to re-hear the parties and decide the matter afresh after considering the facts and prima-facie evidence as mentioned.

The perusal of the impugned judgment shows that no illegality has been committed by learned Addl. Sessions Judge, Kaithal. Learned revisional Court gave the finding that lower Court has failed to consider the fact that FIR was also lodged on the same day i.e. 24.08.2009 against the present petitioner-complainant under Sections 302, 323, 342, 506 IPC but when challan was submitted, then DSP Kuldeep Singh has submitted challan under Sections 342, 323, 506 IPC against the complainant and he

was exonerated under Section 302 IPC. Thereafter, one of the accused, has filed a complaint against the complainant on 02.02.2010, in which he was summoned on 22.02.2012 under Section 304 IPC. So, due to that reason, the complainant Ghisa Ram has filed the complaint and this present complaint has been filed on 11.11.2010. It is also discussed by learned Addl. Sessions Judge, Kaithal that the revision filed by the present complainant against that summoning order dated 22.02.2012 has also been dismissed on 24.04.2014. The Court stated that the documents i.e. copy of judgment dated 22.07.2014 passed by that Court in case FIR No.82 dated 24.08.2009, Roznamcha, copy of complaint filed against complainant Ghisa Ram etc. are *per se* admissible documents and important to decide the present controversy.

Learned Addl. Sessions Judge, Kaithal also discussed that it is not disputed fact that as per allegations of complainant Ghisa Ram, the incident narrated by him in his complaint occurred on 24.08.2009 at 9.15 p.m. and the judgment which has been produced by the accused was passed by the Court on 22.07.2014, in which two of the accused namely Sheo Singh and Som Pal were the accused alongwith other accused and FIR No.82 was lodged on 24.08.2009 and it is alleged that the alleged eight accused persons had attacked on the police station at about 10.30 p.m. When the FIR was lodged against same two of the accused on the same day then why the present complainant has not filed complaint on the same day or within 2-3 days. The present complainant being SHO was fully aware of the process.

I have gone through the findings and also agreed that

accused, rather, it is stated that all the accused uttered those words, which looks improbable that all the accused used same wording.

Furthermore, if the occurrence took place on 24.08.2009, then why the complaint was filed on 11.11.2010, specially when the complainant is himself SHO. It looks that after the presentation of challan against the petitioner-complainant by the police in FIR case under Sections 342, 323 and 506 IPC and when one of the accused filed a complaint to summon the petitioner-complainant under Section 302 IPC etc., then the present complaint was filed by the petitioner-complainant. All these facts have not been noticed by learned lower Court.

In view of the above discussion, I find that learned revisional Court has correctly set aside the summoning order and remanded the matter back to the lower Court for re-considering the matter. The impugned judgment dated 09.04.2015 passed by learned Addl. Sessions Judge, Kaithal, is correct, as per evidence and law.

Therefore, finding no merit in the present petition, the same is dismissed.

However, nothing stated above, shall constitute my opinion on the merits of the case.

October 25, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No