

Sr. No.104

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34349-2018(O&M)

Date of decision: 10.08.2018

Rajender Singh and another

..... Petitioners

versus

State of Haryana

..... Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Neeraj Yadav, Advocate for the petitioners.
Mr. Mohinder Singh Chahal, Advocate for the complainant.

RAJBIR SEHRAWAT, J (ORAL)

This petition has been filed by the petitioners seeking anticipatory bail in case FIR No. 54 dated 31.05.2018 registered under section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short - SC-ST Act) at Police Station Jatusana, Rewari (Annexure P-1).

The case against the petitioners is registered on the complaint by one Santra daughter of Nand Ram belonging to scheduled caste. As per the allegations against the petitioners, father of the complainant was owner of two houses over plot Nos.82 and 83. The petitioners had tried to

take forcible possession of those houses. Therefore, in the year 2000-2001, father of the complainant had applied for demarcation of his property. Resultantly, demarcation of the said plots was duly carried out in the presence of the police. Again in the year 2002, the petitioners tried to take forcible possession of the said plots. Several complaints were made to the police. However, no action was taken. Feeling aggrieved, the complainant had filed a civil suit against the petitioners. Even that was allowed vide judgment dated 11.01.2007. The appeal against the judgment filed by the petitioners was also dismissed on 17.04.2008. Against that, the petitioners had filed Regular Second Appeal, which stands admitted. However, there is no positive order in favour of the petitioners in that suit except the order of *status quo*. Again the petitioners had tried to encroach upon the portion of House No.83 and attempted to take possession of the said house. Again a suit was filed against the petitioners which was decided in her favour in the year 2009. Thereafter, the petitioners tried for compromise. It was further mentioned in the complaint that the petitioners have forcibly raised construction over part of the plots of the complainant. When the complainant tried to construct house over part of plot No.83, then they did not allow her to raise construction. At this time, the petitioners had filed a suit against the complainant. However, that suit was also dismissed on 01.09.2015. Despite that, the petitioners are proclaiming that they would

keep the complainant involved in litigation so that they could force the complainant to migrate from that place. It was further alleged that the petitioners are constantly harassing and torturing the complainant. The petitioners have encroached upon residential house of the complainant, caused injuries to the complainant and her brother Ram Singh and his wife Chando Devi and abused them in the name of their caste.

It was further alleged that in a criminal case, the petitioners were convicted vide judgment dated 03.04.2015. Thereafter, the petitioners again tried to pressurize them to enter into compromise. The matter was reported to the police by the complainant, therefore, proceedings under Section 107/151 of the Cr.P.C. were undertaken. Hence, it was alleged in the complaint that only two houses of scheduled castes exist adjacent to the houses of the petitioners and they are constantly harassing them to pressurize them to migrate from that place. On this complaint moved by the complainant, the above said FIR was registered under Section 3 of the SC and ST Act, 1989.

While arguing the case, counsel for the petitioners has submitted that no case under Section 3 of the SC and ST Act is made out. It was further contended that there is no allegation in the FIR, which attracts the provisions of Section 3 of the SC and ST Act. The complainant has levelled bald allegation against the petitioners just to settle the score in

other cases. It is further contended that there are various civil litigations which are pending or decided by different Courts and most of the civil litigations are of civil nature. No date, place or time of alleged occurrence has been mentioned in the FIR. The FIR is totally silent about any such incident which attracts the criminal liability towards the petitioners under SC-ST Act. It was further contended that in the earlier case registered under Sections 323 and 325 of the IPC, at the instance of the complainant, the petitioners were acquitted in appeal by the Court of Additional Session Judge, Rewari on 20.09.2016. Hence, the present FIR has been lodged only to settle the score by the complainant.

Having heard the learned counsel for the parties, this Court does not find substance in the arguments of learned counsel for the petitioners. Section 18 of the SC-ST Act, specifically bars entertaining of applications for anticipatory bail in case of offences under this Act. Although, there are judgments to the effect that if no offence under SC-ST Act is made out, the Court can still consider the case for granting concession of anticipatory bail. However, in the present case, it cannot be said that no prima facie case is made out against the petitioners under SC-ST Act.

Admittedly, there have been civil litigations between the parties. However, the civil litigations have been decided by the Courts

against the petitioners. The property has been held to be belonging to the complainant. Despite that it is occupied by the petitioners. In this case, it cannot be said that provisions of the SC and ST Act are not attracted in any manner.

In view of the above, this Court does not find any ground to interfere in the matter, for grant of concession of anticipatory bail to the petitioners; despite the bar created by Section 18 of the SC-ST Act. Therefore, the instant application for grant of anticipatory bail is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

August 10 , 2018

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1. Whether speaking/reasoned Yes/No.
2. Whether reportable ? Yes/No.