

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

CRR No.1880 of 2018 (O&M)
Date of Decision: July 17, 2018

Mangat Ram

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Munish Mittal, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. This is a criminal revision that has been filed against the order dated 09.05.2018 passed by the Additional Sessions Judge, Jind whereby, the application filed by the petitioner-complainant has been dismissed.
2. In short, FIR No.80 dated 03.05.2016 came to be registered under Section 304-B of Indian Penal Code at Police Station Alewa, District Jind on the complaint of petitioner-complainant alleging therein that his daughter Monika performed love marriage with Roshan s/o Lichhman, Caste Brahmin on 05.04.2016. After some time, the matter between the complainant and his daughter was patched up and they started meeting each other. The complainant submitted that 4-5 days ago before the incident, he went to meet his daughter and his daughter told him that her husband Roshan physically abused her and also harassed her. She further disclosed

to the complainant that her husband has also demanded a motorcycle. On 02.05.2016, the complainant again went to meet his daughter and his daughter told him that she is totally fed up and wanted to go with the complainant, however, her husband Roshan refused to send her and the complainant came back to Hansi. Thereafter, the son of the complainant received a call from a doctor during the night that Monika is admitted in the hospital due to intake of some poison and on this, they reached at the hospital at 11.00 p.m. In the morning, at about 8.00 a.m. his daughter namely Monika died due to intake of some poison. After completing the investigation, final report was filed in the court and accused was charge-sheeted under Section 304-B of Indian Penal Code and trial commenced. During the course of trial, an application for amendment of charge came to be filed by the petitioner-complainant on the ground that police did not challan the accused under Section 3(2)(v) of SC and ST Act, which application came to be dismissed by the impugned order, which order is under challenger in the instant criminal revision.

3. Learned counsel for the petitioner contends that the petitioner-complainant moved the application for amendment of charge as his daughter belonged to scheduled caste category and the accused belongs to non-scheduled caste category. It is argued that as per Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, if an offence under the Indian Penal Code punishable with the term of 10 years or more is committed against a member of SC/ST community or in respect of his property by a member of non-scheduled caste, then an offence under the aforesaid section is made out.

4. I have heard learned counsel for the parties, apart from perusing

the record.

5. Section 3 (2) (v) of SC/ST (Prevention of Atrocities) Act, 1989 is reproduced as under:

“(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe;

xxx xxx xxx

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine.”

A perusal of the said section shows that if a person, not being a member of Scheduled Caste or Scheduled Tribe, commits any offence under the Indian Penal Code, which is punishable with imprisonment of 10 years or more, against a person or property, who is a member of Scheduled Caste or Scheduled Tribe on the ground that such a person is a member of Scheduled Caste or Scheduled Tribe or such property belongs to such a member, shall be punishable with imprisonment for life and with fine. In order words, offence has to be committed upon a person or upon property of such person deliberately and primarily for the reason that such a person is a member of Scheduled Caste or Scheduled Tribe.

6. After minutely going through the FIR, impugned order and other documents attached with this criminal revision, this court is of the considered view that the trial court has rightly dismissed the application for

amendment of charge. In the FIR, there are allegations that the accused was harassing and beating the deceased on account of demand of dowry i.e. motorcycle. In the FIR, there is not a single allegation that the deceased was harassed or beaten being a member of Scheduled caste community or that there was demand of dowry merely because the daughter of the complainant belonged to the said community. Moreover, the petitioner-complainant did not raise any objection at the time of framing the charge on 26.07.2016 and the application for amendment of charge came to be filed when 12 witnesses had already been examined during the course of trial.

7. In view of the foregoing discussion, this court does not find any illegality or infirmity in the impugned order so passed. The criminal revision in hand is hereby dismissed, being devoid of any merit.

8. Needless to say, anything observed or said by this court shall have no affect on the merits of the case.

July 17, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No