

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

CRM No.M-26208 of 2014 (O&M)

Date of Decision: January 30, 2019

Iqbal Singh and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sant Pal Singh Sidhu, Advocate
for the petitioners.

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.N.S.Dandiwal, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Chiranji Lal for quashing of order dated 29.05.2014 passed by learned Addl. Sessions Judge, Bathinda, vide which the revision petition filed by respondent No.2 was allowed in complaint case bearing No.28 dated 04.05.2004 titled as 'Chiranji Lal vs. Iqbal singh etc.' under Sections 427, 452, 323 IPC and Sections 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [for brevity 'SC/ST Act'] and learned trial Court has been directed to commit the case under Section 3/4 of the SC/ST Act.

by complainant Chiranji Lal against present petitioners. On the basis of preliminary evidence, learned trial Court summoned the accused under Sections 427 and 323 IPC and on their appearance, the accused were charge-sheeted under Sections 427 and 323 IPC vide order dated 26.02.2009. Aggrieved from this order, a revision petition was filed by the complainant and learned Addl. Sessions Judge, Bathinda, vide impugned order dated 29.05.2014 allowed the revision petition by holding that there is prima facie case under Section 3/4 of the SC/ST Act. Aggrieved from the impugned order dated 29.05.2014, present petition has been filed.

Notice of motion was issued. Learned State counsel as well as learned counsel respondents No.2 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.

From the perusal of the complaint itself, I find that there is no averment in the complaint regarding caste of the accused, which is one of the necessary ingredient to file complaint under Section 3 of the SC/ST Act. There is no mention whether accused belongs to scheduled caste or not. Therefore, one of the necessary ingredient is missing in the complaint.

Furthermore, learned Magistrate has held that no scheduled caste certificate has been placed on record by the complainant in the preliminary evidence.

Keeping in view all these facts, in no way, it can be held that prima facie case under Section 3/4 of SC/ST Act is made out. The findings given by learned Magistrate in the order dated 26.02.2009 are as per evidence on record and findings given by learned Addl. Sessions Judge,

Bathinda, in the revision, are not as per evidence on record.

Therefore, finding merit in the present petition, the same is allowed. The impugned order dated 29.05.2014 passed by learned Addl. Sessions Judge, Bathinda, is set aside.

January 30, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No