

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

**CRR No.30 of 2015 (O&M)
Date of Decision: March 13, 2019**

Sube Singh and others

...Petitioners

VERSUS

Dilbag Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.S.Rana, Senior Advocate with
Mr.Deepak Kumar Gollen, Advocate
for the petitioners.

Mr.Navdeep Singh, AAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners against Dilbag Singh and other respondents, challenging the impugned order dated 20.08.2014 passed by learned Addl. Sessions Judge, Sonapat, vide which the petitioners were charge-sheeted under Section 3(1)(iv) and (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [for brevity the 'SC/ST Act'].

Notice of motion was issued. Learned State counsel appeared and contested the petition.

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

From the record, I find that Dilbag filed a complaint against

Sube Singh, Vikas Kumar, Shantnu, Sumit and Naib Tehsildar under Section 190 Cr.P.C. and under Section 3(i) (iv) (v) of SC/ST Act. The averments of the complaint are as under:-

“That killa No.149/3/1, 3/2, 4 measuring 15 kanals 08 marla surplus land of Village Baroda Mor Teh. Gohana Distt. Sonapat was allotted on 26.4.77 by S.D.O. Civil-cum-Allotment Authority, Gohana to Sh.Ramdia s/o Sh.Ramji Lal, Scheduled Caste for a sum of Rs.4731/65P, and first installment of Rs.473/17P was deposited vide challan No.1438 dt. 18.5.77 as noted on the back of allotment certificate of Sh.Ramdia by N.T. on 5.7.77 addressed to Kanugo Halqa for deliver of possession. Possession was delivered to Sh.Ramdia on 20.10.77 as per rapat roznamcha Patwari no.63 dt. 20.10.77 Subsequently Sh.O.P.Langain SDO Civil-cum-Allotment Authority (Surplus Land) Gohana made allotment of surplus area measuring 151 kanal 14 marla land to different allottees vide order dated 28.3.84. At Sr.No.8 of the said allotment order killa No.199/3/1, 3/2,4 measuring 15 kanal 08 marla land was allotted to Sh.Sube Singh s/o Risal Singh under category -'I'-others belonging to Jat Community on 28.3.84 but Naib Tehsildar Agri. prepared allotment certificate on form U/S-3 and it was signed by allotment authority, Gohana on 20.12.85. Sh.Ram Dia f/o the complainant expired on 29.10.97. After his death complainant came to know that his father had been allotted surplus land, the same was got allotted to Sh.Sube Singh s/o Risal Singh Jat non-scheduled caste in his favour, and got allotment certificate comprising killa no.149/3/1/3/2, 4 instead of Killa No.199/3/1/, 3/2, 4 measuring 15 kanal 08 marla from Naib Tehsildar Surplus, Sonapat and it was signed by Sh.Om Parkash Langyan, SDO Civil allotment authority Gohana. Baking upon the said allotment certificate and depositing the amount of allotment of

Rs.4731/65 P and got sanctioned mutation No.3618 dt.29.10.2005 in his favour. Out of that very land he sold Killa Nos.149/3/1/ (04-0) 3/2/2 (3-0) 4/2 (7-3) measuring 14 kanal 3 marla for a sum of Rs.2,80,000/- vide sale deed No.6047 dt. 21.2.05 to Vikas Kumar Shantanu, Sumit sons of Rajbir s/o Kalu Jats r/o vill. Baroda Mor now at present R/o Dev Colony, Rohtak and mutation No.4282 was not sanctioned on 31.5.2005. The respondent accrued conspired and manipulated the allotted land and deprived the father of the complainant and the complainant from the benefit which the complainant was entitled to the said accused Vikas, Shantnu and Sumit son of Rajbir Singh s/o Kalu Jat of Village Baroda Mor are in wrongful cultivating possession whereas the complain is deprived of the benefits being a scheduled caste. Legal action be taken against all accused persons.”

Learned Addl. Sessions Judge, Sonapat, vide impugned order dated 20.08.2014 framed the charges against the accused-petitioners under Section 3(1)(iv) and (v) of the SC/ST Act, by holding that prima facie case is made out against the accused.

The perusal of the complaint shows that Ram Dia was allotted the land on 20.10.1977. It is clear that property was allotted to Sube Singh in the year 1984 and certificate relating to the allotment was issued qua land in question on 20.12.1985 by the concerned department, copy of which is stated to be Annexure P-3. As per Annexure P-4, mutation was sanctioned on 26.10.1985 by the Revenue Department on the basis of allotment certificate. Ram Dia had died, as argued, on 29.10.1997. He never raised any complaint to anybody nor filed any proceeding to contest allotment letter or mutation. Present complainant Dilbag filed a complaint under

mutation regarding the allotment executed by Sube Singh in the year 2005, which, as argued, has been dismissed and that order has become final and no further proceedings have been conducted nor any suit has been filed to set aside the allotment certificate or mutation in favour of Sube Singh.

The perusal of the record further shows that there is no allegation that at any stage, Sube Singh or Vikas Kumar, have dispossessed the complainant forcibly nor there is any plea that on which date, Ram Dia or Dilbag have been dispossessed.

Keeping in view all these facts, which are on the record and in view of admitted facts, I find that complaint filed by Dilbag in the year 2009 showing grievance regarding allotment of the year 1984, is nothing but abuse of process of law and amounts to miscarriage of justice. Furthermore, from the averments of the complaint itself, no prima facie case is made out under Section 3 (1)(iv) and (v) of the SC/ST Act.

In view of the above discussion, I find that the impugned order dated 20.08.2014 passed by learned Addl. Sessions Judge, Sonapat, framing the charges against the petitioners, is not as per law and the same is set aside.

Therefore, finding merit in the present revision petition, the same is allowed. The petitioners are discharged of the charges framed against them.

March 13, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No