

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

Criminal Revision No.9842 of 2018(O&M)

Date of Decision: November 19, 2019

Tulsa Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Gurmeet Singh, Advocate
for the petitioner.

Mr.Ramandeep Singh Sandhu, Sr.DAG, Punjab.

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HARINDER SINGH SIDHU, J.

Challenge herein is to the order dated 21.09.2018 passed by the Judicial Magistrate Ist Class, Dasuya, whereby, the complaint filed by the petitioner Tulsa Singh against accused - respondents No.1 to 3 under Sections 467, 468, 471, 420, 120-B IPC was dismissed. The respondents were discharged.

The complaint was filed with the allegations that respondents Mansha @ Manshu and Rajeena belong to Christian religion and as such, they fall under the category of 'backward class' as per the notification of the Government of India. The said accused in connivance with some persons of the village got prepared false certificates dated 22.04.2008 and 01.02.2009 claiming themselves to be of 'Balmiki' caste which is a 'Scheduled Caste'.

On the basis of this false certificate Rajeena contested the Gram Panchayat election against a seat reserved for Scheduled Castes. Accused Mansha got

government land on lease which could be leased only to a person belonging to the Scheduled Castes. Accused Balwinder Singh was the Sarpanch of the village at the relevant time and was alleged to be in connivance with Rajeena and Mansha.

The complainant examined Waris Masih as CW1, Sandeep Singh Clerk Tehsil office CW2, Sanjeev Kumar Secretary Gram Panchayat CW3, Kanwar Maheshwar Singh CW4, Jeet Singh Deep Writer CW5, Sadhu Ram CW6 and Balwinder Singh Clerk Tehsil Office as CW7. Complainant himself appeared as CW9 and Amrik Singh was examined as CW10.

CW1 Waris Masih brought the original Batismal Anni 19-19 Register. As per the entry on this register on 19.07.1992 Rajeena @ Rajji r/o Rawan w/o Mansha was baptised by Father Thomas K. After Baptism family card was prepared which was produced as CW1/B. CW2 Sandeep Singh produced the file relating to issuance of Scheduled Caste certificate dated 22.04.2008 (Ex.P1) along with application of Rajeena (Ex.P2), report of Halqa Patwari (Ex.P3), affidavit of Rajeena (Ex.P4) and her ration card furnished as proof of residence as Ex.P5. Prem Singh Sarpanch of village Rawan had identified her before Tehsildar, Tanda (Ex.P7). He also produced the report of Naib Tehsildar for issuance of certificate as Ex.P8. He also brought SC Register for the year 1999 regarding the issuance of SC Certificate to Mansha s/o Rehma of village Rawan.

CW3 Sanjeev Kumar deposed that Gram Panchayat of the village has agricultural land, which is leased by the Gram Panchayat by conducting an auction. The auction in respect of reserved plot is limited to Scheduled Castes only, whereas, for the general plot, there is no such

restriction. The plot was auctioned in the year 2009-2010, wherein, Prem Singh and Mansha were the highest bidders.

CW4 Kanwar Maheshwar Singh, Returning Officer of village Rawan for the elections held in June-July, 2013 deposed that Rajeena had contested the election in the SC Women category in Ward No.2 and was elected as Member Panchayat.

The accused - respondents had produced Ex.D1 which is a letter dated 02.08.2016 sent by SDM Dasuya to Gram Panchayat Village Rawan on the subject of correction of caste along with a copy of the report of the Naib Tehsildar. As many as 43 residents of the village had signed the application of correction of their caste which was mentioned as Christian. Accused Mansha was at Sr. No. 11 in this application. From this application moved by the Gram Panchayat it was clear that many persons in the village who had been shown as belonging to the Christian community had moved application for change of their caste in the records.

Ld. JMIC held that though CW1 Waris Masih had stated that accused Rajeena was baptised however that would not change her caste from Balmiki to Christianity. The accused may have converted to Christianity for any reason. Moreover, the certificate of Scheduled Caste has been issued to her after proper verification by the concerned department. Not only the accused but large number of other persons from the village had also applied for correction of their caste. There was nothing on record to indicate that the accused had moved any application for entering her caste as Christian or that any Backward Class certificate was issued to her or that any notice was issued to her before entry was made as Christian.

Further the complaint has been moved about one year after

accused Rajeena contested the election of Panch in 2013 and about four years after Mansha Singh accused had taken the land on lease in the year 2008-09.

As for accused Balwinder Singh could be said to have committed any offence in allotting the land to Mansha as the latter was in possession of a certificate of Scheduled Caste issued by the concerned department.

Accordingly, it was held that there was no material to frame charge against the accused. They were discharged.

The Ld. JMIC has correctly appreciated that after her baptism accused - Rajeena never submitted any application for change of her caste. Large number of people from the village had applied for correction of entries whereby they were shown as 'Christians'. After due verification the entries were corrected, the accused Rajeena was issued Scheduled Caste Certificate.

There is no illegality or infirmity in the impugned order.

Revision dismissed.

November 19, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No