

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

CRM No.M-39109 of 2018 (O&M)

Date of Decision: January 22, 2019

Mohit and another

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.D.P.S.Bajwa, Advocate
for the petitioners.

Mr.Tanuj Sharma, AAG, Haryana
for the respondent-State.

Ms.Payel Mehta, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Amarjeet Kaur for quashing the FIR No.97 dated 26.02.2018 under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [for brevity 'SC/ST Act'], registered at Police Station City Fatehabad, final report and all subsequent proceedings arising therefrom.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent 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.

The FIR in this case has been registered on the statement of Amarjeet Kaur, who mainly stated that she has financial dealing of ₹1,10,000/- with her nephew named Kala Singh, who gave her one cheque. When she presented that cheque, it was dishonoured and she filed the case in that regard in the Court of Chief Judicial Magistrate, Fatehabad. The date in the said case is 25.01.2018. Prior to that, 29.4.2017 was the date. When she was going to the Court for attending the hearing, friends of Kala Singh named Mohit and Pavitra, met her and asked to withdraw the complaint case but when she stated that she has no dispute with them and financial dealing with Kala Singh and she will not withdraw the case, then in fit of anger, they gave abuses regarding caste to her and rebuked her, upon which, she moved a complaint to the S.P. and C.M. window for taking action against them.

The perusal of the record shows that occurrence took place on 29.04.2017 when the complainant, as alleged, was going to the Court for attending the date in a cheque bouncing case but the present FIR has been got registered on 26.02.2018 i.e. after gap of ten months and there is no explanation regarding such a long delay. Further, there is nothing on the record that the Court was informed regarding the incident on that date.

Next, I find that there is nothing in the FIR as to what comments or abuses regarding the caste have been given by the accused. There is only general allegation that in a fit of anger, accused gave abuses regarding caste to the complainant. Furthermore, there is nothing in the FIR that accused abused the complainant by caste with intention to defame or disrepute her due to her caste. Moreover, caste of the accused is also not

SC/ST Act.

At the time of arguments, it is admitted that accused Mohit is Advocate of Kala Singh, who was contesting the complaint by the complainant in the Court. It looks that to put pressure upon the Advocate of Kala Singh in that complaint case, present FIR has been got registered. Furthermore, learned counsel for the petitioners brought to the notice of this Court, document Ex.P2, which is statement of Amarjeet Kaur given to the police, in which, she has stated that she has filed a case against her nephew Kala Singh in the Court. When she going to attend the date on 29.04.2017 and reached outside the Court, then Pavitra and Mohit met her and misbehaved with her. At that time, her husband Ajmer Singh was with her and they started given threats to her and her husband and above-said accused have made it difficult for her and her family to live. It is clear that no such caste abuses have been given by the accused as per this statement given to the police. Annexure P-3 is the Kalandra under Section 107/151 Cr.P.C., in which it is written that from the verification, giving of caste abuses and wrongful restraint is not found to be committed and it is also written that preventive action is necessary and the Kalandra was given in the Court. This Kalandra was produced on 02.05.2017. Annexure P-4 is the copy of the judgment passed by the Court in the complaint case filed by Amarjeet Kaur against Kala Singh, in which, present petitioner Mohit has been shown as counsel for Kala Singh. From the copy of the judgment, it is clear that complaint was dismissed on 03.02.2018 and thereafter, present FIR was got registered.

From the perusal of the documents and the FIR, I find that

firstly, necessary ingredients are missing in the FIR to constitute offence

under Section 3 of SC/ST Act and further it looks that present FIR has been got registered against the petitioners to put pressure upon Kala Singh accused in the complaint case filed by Amarjeet Kaur.

In view of the above discussion, I find that registration of the present FIR is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. FIR No.97 dated 26.02.2018 under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), registered at Police Station City Fatehabad along with all subsequent proceedings are hereby quashed.

January 22, 2019	(INDERJIT SINGH)
Vgulati	JUDGE
Whether speaking/reasoned	Yes
Whether reportable	No