

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

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CRM-M-2242-2020 (O&M)

Date of decision: 20.01.2020

Pala Ram**...Petitioner****Versus****Suresh Kumar and another****...Respondents****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Amit Khatkar, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 21.09.2017, passed by the trial Court, vide which Criminal Complaint No. 219 of 2017, dated 24.05.2017, filed by the petitioner under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (*for short 'SC/ST Act'*), was dismissed at the stage of summoning; as well as order dated 09.08.2019, passed by the Additional Sessions Judge, Jind, vide which the revision filed by the petitioner was also dismissed.

Brief facts of the case are that petitioner/complainant filed the aforesaid complaint against the respondents-accused. The petitioner/complainant belongs to Scheduled Caste. The respondents-accused are stated to be the members of the upper class and they had the knowledge that the petitioner/complainant is a member of Scheduled Caste. The petitioner/complainant was working as Junior Engineer as well as Municipal Engineer in the Municipal Council, Jind and respondent-accused No.1 used to visit the office of the petitioner/complainant whereas the respondent No. 2-accused was a Controlling Officer of the District Jind. It

was further stated that the petitioner/complainant for discharging his duties as Municipal Engineer has carried out demolition of unauthorized constructions and has discharged his duties honestly and diligently and never tried to refute from his duties. The respondent-accused no.1 knowingly filed the complaint against the petitioner/complainant by appearing personally before the Deputy Commissioner, Jind and levelled allegations of embezzlement in the construction of streets of Jind. Then an enquiry was ordered by the learned Deputy Commissioner, Jind through the SDO Dalbir Singh. During the enquiry samples of the material used in the construction was taken and the same were sent to Laboratory for analyses and as per report dated 05.04.2013, all the samples were found accurate and no fault was found in the material used. The SDO, Jind after his satisfaction has ordered for making the payment on 19.03.2013. It was mandatory that the payment of work can be made only after the approval of Monitoring Committee. The respondent-accused No.1, who was desperate in getting the complainant punished, made a written complaint dated 14.07.2015 to Deputy Commissioner, Jind alleging the embezzlement of amount in construction of streets. The enquiry was conducted by Ms. Amrita Singh and was submitted vide memo no.142 dated 29.07.2013 to the then Deputy Commissioner, Jind. In the enquiry, it was observed that the complaint of respondent-accused no.1 was baseless and frivolous. Again a fresh complaint was made by the respondent-accused no.1 on 25.03.2016. The respondent-accused no.2 was having the knowledge of the aforesaid complaint but he again ordered enquiry on 11.08.2015. The respondent-accused no.2 did not verify the report of the SDO, Jind which was made earlier on the complaint of respondent-accused no.1. The enquiry ordered by

respondent-accused no.2 was false. The petitioner/complainant belongs to Scheduled Caste and all this was done to harass, humiliate and torture him. The respondent-accused no.1 in his complaint mentioned that embezzlement of crores of rupees has taken place whereas the entire cost incurred by Municipal Committee, Jind on the works in question was Rs.8,50,000/-. This complaint was enquired by SDO who vide letter no.578 dated 19.08.2015 made a report that the complaint on the same subject has already been enquired into. The respondent-accused no.1 has again made a false complaint dated 16.11.2016 addressed to the Chief Minister Haryana in the shape of reminder no.3. It was further stated that the respondent-accused no.1 met the petitioner/complainant in the main Bazaar, Jind on 13.05.2017 when the petitioner/complainant was with Amit Sharma and was going to purchase the grocery. The respondent-accused no.1 told the revisionist-complainant that that he will spoil his reputation by making more and more complaints and will not allow the petitioner/complainant to have comfortable life. When the petitioner/complainant asked the respondent/accused the reason for making false complaints, the respondent-accused no.1 called the petitioner/complainant Chamar by Caste and he had not obliged him at the time of construction of *gali* in front of his house by giving the small quantity of construction material. The petitioner/complainant reported the matter to the police, but the police did not take any action against the respondent-accused. Hence, the complaint was filed.

In his preliminary evidence, petitioner/complainant Pala Ram examined himself as CW-1 reiterating the contents of his complaint. petitioner/complainant further examined Amit Sharma as CW-2 and Clerk

as CW-3, who has proved report made vide letter No.518 Ex.CW3/A and report made by SDO Ex.CW3/B and thereafter closed the preliminary evidence. The petitioner/complainant also tendered inspection report Mark-A, the details of the work done Mark-B, complaint against the petitioner/complainant Mark-C & Mark-E, copy of reminder No.3 by respondent-accused no.1 Mark-F, complaint made against the revisionist complainant Mark-G, letter to SDO Mark-G and letter No.518 regarding complaint Mark-J.

On the basis of the aforesaid evidence, the trial Court did not find a prima-facie case against the respondents-accused and dismissed the complaint, by passing the following order on 21.09.2017:

“Reasoning and Decision:

1. In the complaint the complainant has stated that on 13.05.2017 when he was along Shri Amit Sharma the accused No. 1 accidentally met him and he made casteist remarks against the complainant and called him “chamar” in the market area. But in his deposition before this Court as CW1 he deposed that the accused No. 1 threatened him and said he would make his life hell, but it is not stated that the accused No. 1 made casteist remarks against him. Also CW2 Shri Amit Sharma who was present with the complainant on that day in his deposition has not made any such revelation that such remarks were made by the accused No. 1 against the complainant. He also has just stated that the accused said to them that he has many contacts and would make the life of the complainant a hell. Therefore, there was apparently no intentional insulting with intend to humiliate the complainant and thus it does not fall under Section 3(1)(x) as by his own deposition and by deposition of CW2 the accused No. 1 has not made any

such remarks which apparently insinuate that such remarks were made to insult the complainant because he belongs to a scheduled caste.

2. Mark F is the Reminder No. 3 at the CM window filed by accused No. 1 is placed on record. It is stated by the accused No. 1 in Mark F that the earlier complaint was not filed by him. Also he stated that the SDO (PWD) (B.S. Malik) inspected the streets in his presence on 08.11.2015, but it is clarified that such inspection was done on the basis of a complaint which was not made by him. In the letter he is even stating that his signatures on the alleged complaint is forged. This is not disputed that the address and Phone No. and no such details were given in the earlier complaint which the complainant is alleging that the accused No. 1 filed against him. Also in this letter the accused No.1 has supplied his full information along with his address and phone number also. Thus, it is not clear whether the accused No. 1 indeed complained against the complainant previously also.

It is also pertinent to mention that though the accused No. 1 has made complaints against the complainant, but it cannot be inferred at this stage that his intention of making such complaint were because the accused belongs to the scheduled caste category.

Thus the acts by the accused No. 1 as discussed above cannot be said to be falling under Section 3 of SC/ST Act.

3. Against accused No. 2 the complainant has stated that already a complaint was made in favour of him after proper checking by the SDO vide Memo No. 142 dated 29.07.2013 to the then Deputy Commissioner, Jind and when second complaint was made, the accused no. 2 who was the DC, then in Jind did not take the earlier report

into account and again ordered for investigation and thereby he committed an offence under Section 4 of SC/ST Act. It is pertinent to note here that there is no ounce of any material which suggests that such act was done by the accused No. 2 due to the fact that the complainant belongs to scheduled caste.

It is pertinent to mention here that under Section 4 of the Prevention of Atrocities against S.C. and S.T. Act the duties of the public servant are stated under clause (2) that are:

“The duties of public servant referred to in sub-section (1) shall include— (a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant; (b) to register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of the Act; (c) to furnish a copy of the information so recorded forthwith to the informant; (d) to record the statement of the victims or witnesses; (e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing; (f) to correctly prepare, frame and translate any document or electronic record; (g) to perform any other duty specified in the Act or the rules made thereunder.

Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.”

4. In the present case there has been no such violation of the duties as stated in Section 4 by the accused No. 2.

5. The statement of Object and Reasons of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provide that it is a Special Legislation to check and deter crimes against the persons belonging to the Scheduled Castes and Scheduled Tribes and to prevent the commission of atrocities against the members of the Scheduled Castes and Scheduled Tribes. Being a special social legislation involving stringent

provisions which do not even provide for an anticipatory bail, it is all the more necessary for the court therefore to ensure that the same are not misused or abused by persons.

Before issuance of summons the Magistrate should be satisfied that there is sufficient ground for proceeding with the complaint. After considering the statements on oath of the complainant and of the witness this Court is of the opinion that there is no sufficient ground for proceeding, therefore, the complaint is hereby dismissed. File be consigned to record room after due compliance.”

The petitioner/complainant, thereafter, filed a revision before the Court of Sessions which was contested by the respondents-accused. The revisional Court, after hearing both the parties, dismissed the revision filed by the petitioner/complainant by passing the following order:

“7. After hearing the counsel for the parties, it is observed that the criminal law cannot be set into motion as a matter of course. The revisional court is not to interfere with the order passed by the inferior criminal court unless there is an illegality or irregularity. While exercising revisional jurisdiction the court cannot re-evaluate and re-appreciate the evidence recorded before the trial court.

8. The revisionist-complainant has pleaded that he worked as Junior Engineer as well as Municipal Engineer in the Municipal Council, Jind and the respondent-accused no.1 being Controlling Officer of the District Jind, has been visiting the office of the revisionist-complainant. The revisionist-complainant for discharging of his duties as Municipal Engineer has carried out demolition of unauthorized constructions and has discharged his duties honestly and diligently and never tried to refute from his duties. The respondent-

accused no.1 knowingly filed the complaint against the revisionist-complainant by appearing personally before the Deputy Commissioner, Jind and levelled allegation of embezzlement in the construction of streets of Jind. Enquiries were conducted but nothing was found against the revisionist-complainant and he has been harassed by the respondent-accused. It was prayed that due to the complaints made by the respondent-accused no.1 in connivance with the respondent-accused no.2, they have violated the provisions of the Prevention of Atrocities against SC & ST and they be summoned.

9. It is observed that as strange as it may appear, but strictly speaking, the common tendency and frequency of the complainants of involving and roping the accused on vague & bald allegations under section 3 & 4 of the Act, have been tremendously increasing day-by-day in our society. Even the plain and simple occurrence under the Indian Penal Code is given the colour of offence under section 3 & 4 of the special Act by adding false and vague allegations as in the instant case. This tendency needs to be curbed. If not discouraged and in the wake of their over enthusiasm and anxiety to take revenge of civil dispute by involving the accused in such false criminal cases, in that eventuality, it will ultimately weaken those true cases of the prosecution as well even against the real culprits and the very object and purpose of the Act, would pale into insignificance in this relevant behalf. The perusal of the file shows that the act and conduct of the respondent-accused was in performance of their official duties and they were not personally against the revisionist-complainant and the provisions of the Prevention of Atrocities against SC & ST are not attracted. Needless to say, respondents-accused are public servants and needs to be guarded against such

vague allegations. The Hon'ble Supreme Court has granted a word of caution before proceeding in such like matters. There arises no ground to summon the accused. The trial court after considering the facts of the complaint and the evidence has rightly dismissed the complaint qua the respondents.

10. So, no interference is required in the impugned order and accordingly the present revision is hereby dismissed. Lower court record alongwith copy of this order is ordered to be sent to the concerned Court. Revision petition be consigned to record room after due compliance.”

Learned counsel for the petitioner has argued that both the courts below have not appreciated that accused No. 1 had made a complaint before the Deputy Commissioner, Jind levelling allegations of embezzlement against the petitioner/complainant in the construction of streets by the Municipal Committee as he was posted as Junior Engineer. The SDO further conducted an inquiry and after taking samples of the streets and getting it examined by a laboratory found the complaint to be frivolous and baseless and the complaint given by accused No. 1 was filed by the Deputy Commissioner.

Learned counsel for the petitioner further submitted that since the complaint was made by accused No. 1, having the knowledge of the falsehood, the petitioner was unnecessarily harassed and since the petitioner belongs to scheduled caste, accused No. 1 has committed offence punishable under Sections 3(1)(q) of the SC/ST Act which is punishable under Sections 3 and 4 of the SC/ST Act.

After hearing learned counsel for the petitioner, I find no infirmity in the impugned orders passed by the courts below.

A perusal of the impugned orders passed by the courts below shows that after appreciating the evidence of the petitioner as CW-1 and other witnesses and also after looking into the evidence led by the petitioner which includes complaint given by accused No. 1 and a reminder to the same, primarily no offence is made out.

Both the courts below have recorded a finding that from the allegations and evidence led by the petitioner, no offence punishable under Sections 3(1)(q) and 4 of the SC/ST Act is made out. The trial Court has further recorded its satisfaction that upon considering the statement of the witnesses on oath, the Court is of the opinion that no sufficient ground for proceeding further on the basis of the complaint is made out and, therefore, dismissed the same.

Even the revisional Court, on re-appreciation of evidence, has recorded its finding that respondents/accused, in performance of their official duties, have given the said complaint and there was no personal grudge against the petitioner and, therefore, the provisions of Section 3(1)(q) of the SC/ST Act are not attracted.

In view of the above, finding no ground to differ with the findings recorded by both the courts below so as to invoke the revisional jurisdiction of this Court, the present petition is hereby dismissed.

20.01.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No