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

**CRM-M-22496-2020**

Date of decision: 14.08.2020

**Manish and others**

**.....Petitioners**

**V/s.**

**State of Haryana**

**.....Respondent**

**CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR**

Present: Mr. Sushil Sheoran, for the petitioners.

Mr. Deepak Bhardwaj, Deputy Advocate General, Haryana

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**Sanjay Kumar, J.**

The petitioners are the accused in FIR No. 424 dated 15.06.2020 on the file of Police Station Sadar Bhiwani, District Bhiwani, registered under Sections 294, 323, 354, 427, 506 and 34 IPC along with Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act of 1989'). It may be noted that the FIR quotes the last provision wrongly as Section 3(2) (v), but it appears that a correction was made thereafter showing the provision properly.

Section 3(2) (va) of the Act of 1989 provides that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, commits an offence specified in the Schedule to the Act of 1989 against a person or property knowing that such person is a member of the Scheduled Caste or

a Scheduled Tribe or such property belongs to such a member, shall be punishable with the punishment prescribed under the Indian Penal Code, 1860. The Schedule includes an offence under Section 506 IPC.

In terms of the law laid down by the Supreme Court in '***Prathvi Raj Chauhan V/s. Union of India***' [2020 SCC Online SC 159], this Court would have examine as to whether a *prima facie* case is made out in relation to the offence alleged under the Act of 1989 and if found to be so, Sections 18 and 18A thereof would bar the applicability of Section 438 Cr.P.C in relation thereto.

Mr. Sushil Sheoran, learned counsel for the petitioners, would state that the offences alleged under Sections 323 and 294 IPC have been dropped and the other offences alleged are bailable. Even so, the offence alleged under Section 506 IPC is a non-bailable one in the State of Haryana, in the light of the State amendment.

Therefore, it would suffice to examine whether a *prima facie* case is made out in relation to the offence alleged Section 506 IPC. The statement made by the complainant, which led to registration of the subject FIR, demonstrates that the accused were alleged to have threatened the complainant and his family members, members of a Scheduled Caste. *Prima facie*, such threats, if proved, would make out a case of criminal intimidation.

That being so, Section 18 and 18A of the Act of 1989 would bar applicability of the provisions of Section 438 Cr.P.C. In consequence, the petitioners would not be entitled to seek the relief of pre-arrest bail thereunder.

The petition is therefore not maintainable and is accordingly dismissed on that short ground.

(SANJAY KUMAR)  
JUDGE

14.08.2020

rakesh  
whether speaking/non speaking : Yes/no  
whether reportable/non reportable : Yes/no