

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

CRR 260 of 2019 (O&M)

Date of Decision: October 04, 2021

Narinder Singh Randhawa and another ...Petitioners
Versus
State of Punjab and another
... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. J.S. Bedi, Sr. Advocate with
Mr. Vivek Salathia, Advocate
for the petitioners.

Mr. Harbir Sandhu, AAG, Punjab.

Mr. Navkiran Singh, Advocate
for respondent No.2.

FATEH DEEP SINGH, J. (Oral)

One lady aged between 25 to 26 years (name withheld for the sake of privacy) complainant got registered an FIR bearing No. 121 dated 06.09.2017 under Sections 354, 376-D, 420, 406 of IPC and Section 3(1)(xii) of SC and ST Act, 1989, with Police Station Sadar Kotkapura, District Faridkot

(Annexure P-10) against the present accused/petitioners Narender Singh Randhawa a senior citizen and his son Jasmeet Singh Randhawa.

The brief allegations in the FIR are to the effect that prosecutrix is working as a TGT Punjabi teacher-cum-Administrative Officer at Guru Gobind Singh Adarsh School Village Pacca, District Faridkot with the petitioners since 07.11.2016. It is alleged that the petitioner No. 1 Narender Singh Randhawa who happens to be the Chairman of the School though had marked presence of the prosecutrix from 01st of October 2016 onwards but kept the salary of this month with himself. It is alleged that petitioner No. 1 misbehaved with the prosecutrix on many occasions in the school premises and on 08th November 2016 took her to a house where he forced the prosecutrix to consume Alcohol and, thereafter, violated her and threatened as well.

The complainant had further levelled allegations that

petitioner No.1 used to call her from her PG accommodation at night a number of times and used to violate her repeatedly. It is claimed that 02 months prior to the registration of the FIR, the prosecutrix alleged that petitioner No.1 asked the complainant to pay Rs. 1 lac to be given to officials of Punjab Development Board to keep the complainant's job card intact and which she obliged. The complainant has alleged that prior to one month to the registration of the case, the petitioner No. 2 Jasmeet Singh Randhawa called the prosecutrix to his house and told her that whatever used to transpire between the two was without influence or fear. The story further goes that in the month of April that when petitioner No. 1 was behind the bars in some other case, petitioner No.2 Jasmeet Singh Randhawa would call the prosecutrix and used to defile her repeatedly on many occasions. The prosecutrix has alleged that on 19.08.2017 some dispute has arisen between the Chairman and staff of Middumaan School for which Harsimaran Randhawa daughter

of petitioner No. 1 who was the principal of Ransih Kalan Adarsh School forced the prosecutrix to make wrong allegations against husband of Principal Sarika Dhawan Principal of Middumaan School to which the complainant refused and claimed that her signatures were obtained on many blank papers. The complainant has also levelled allegations against both the petitioners alongwith Sunita Arora and some other members of Sukh Sagar Welfare Association of humiliation and harassment.

Upon completion of investigations challan against both the accused petitioners was filed in the Court. The Court of learned Session Judge Faridkot vide impugned order dated 22.11.2018 framed charges against both the accused for commission of offences under Sections 354, 376, 420 IPC read with Section 3 (xii) of the Schedules Castes and Scheduled Tribes (Prevention of Atrocities) Act. The same is the subject matter of present revision.

Heard Mr. J.S. Bedi, Sr. Advocate with Mr. Vivek Salathia, Advocate for the petitioners, Mr. Harbir Sandhu, AAG, Punjab for respondent No.1-State and Mr. Navkiran Singh, Advocate for respondent No.2.

It is not in any manner displaced that the prosecutrix is an educated lady (B.A., B.Ed. Diploma holder in computers) aged around 26 years and was working as a TGT Punjabi Teacher as well as Administrator and, therefore, is expected to be having reasonable understanding of the things and situations. It is her own stand that she was in a physical relationship with both father and the son which she continued over a long period of time. The own documents Annexure (P-16) by way of extracts of mobile talks between the prosecutrix and accused side on various occasions are illustrative of the fact that she had volunteered into this relationship with both the petitioners at the same time. The own allegations of the prosecutrix that first occurrence of defilement took place on 08th

November 2016 and which took place 3/4 times, however, for the first time she reported the matter on 06.09.2017 after an inordinate delay during which period she had kept mum and did not either report the matter to any of her colleagues or parents are matters which puts the Courts on its guard. The telephonic conversation placed on the record which could not be displaced during the course of arguments shows that the prosecutrix was in a relationship with another male whom she wanted to be employed by the accused/petitioner are matters which further puts the Court on its guard to ensure that **“wheat is segregated from the chaff”** and her own document which her counsel does not displace i.e., her letter of termination (Annexure P-1). It is the admission by the prosecutrix that during those days regarding which allegations have come about there was a dispute between the school management and the teachers regarding which writ petitions were filed by the teachers against the school management of the petitioners'. It is

as a consequence of these wranglings another two FIR's bearing No. 15 dated 14.02.2017 (Annexure P-6) and 100 dated 19.08.2017 (Annexure P-9) were also got registered under various provisions are matters which cannot escape judicial attention and fortifies the fact that it was on account of some dispute between the teachers and the school management it has been made to registering of FIRs and filing of cases. In the background of this grim situation, the very conduct of the prosecutrix needs to be scrutinized with more care and caution as she has levelled allegations in the FIR. She was also asked to file complaint against others as well husband of another lady principal shows that she was pliable to such a process.

The contentions of the counsel for the respondent that order of framing of charge is an *interlocutory* order against which no revision lies which does not impresses the Court much. The very object of securing revisional jurisdiction of superior criminal courts is to correct miscarriage of justice

arising from the misconception of law or irregularity of procedure. In case of **Rajendera Kumar Sitaram Pande and others Vs. Uttam and another** (1999) 3 Supreme Court Cases 134, it was laid down by the apex Court that any order which substantially affects the rights of the parties cannot be termed to be an **“interlocutory order”** and thus, to the mind of this Court an order framing of charges is amenable to revision. Furthermore, what permeates from the arguments of the two sides which are hotly debated is over the very scope and ambit of Section 397 Cr.P.C. In case of **Niranjan Singh Karam Singh, Punjabi Advocate Vs. Jitendra Bhimraj Bijaya and others** and other connected cases **(1990) 4 Supreme Court Cases 76,** the Apex Court held that at the stage where a Court is supposed to decide whether or not there exists sufficient grounds for framing of charge against an accused and, therefore, the Courts need to limit itself in deciding if the case emerge from the records of the documents constitute the

offence for which the accused is being charged and at this stage the Court might shift the evidence for that limited purpose and come to the conclusion whether there is fresh grounds to frame the charge or not and the Court for this limited purpose can go through the evidence on the records gathered during the investigations at the initial stage and cannot be expected to accept that all the prosecution case is a gospel truth and where an evidence is opposite to the common sense then the Courts need to show indulgence.

Reverting back to the present case, the learned trial Court though has not passed any speaking order at the time of framing of the charges but stated that *prima-facie* case commission of offences under Sections under Sections 354, 376, 420 IPC read with Section 3 (xii) of the Schedules Casts and Scheduled Tribes (Prevention of Atrocities) Act is made out. As is there before this Court that charges of rape has been slapped and as is fairly conceded by the counsel for the State

assisted by the counsel for the complainant there is no medical evidence as to the offence of rape and it is merely on oral statement of the lady this section has been imposed. It is the own stand of the prosecutrix that she has been going with the accused Narinder Singh Randhawa a number of times to satisfy the male carnal desire and her scripts of telephonic conversation placed on the records substantiated that she had herself voluntarily fallen into this relationship. Furthermore during the rendezvous with the father the lady had also entrapped the son and as per her own allegations stayed with him in a house for one month where she used to be violated repeatedly even regarding these she has not raised any hue and cry for a long period of time. No doubt the courts are supposed to be sensitive to such allegations by a lady but it has to ensure that very credibility of the allegations carry some element of truth. Since there is no medical evidence much less corroborative to establish offence of rape together with the

inordinate delay after which these insinuations have cropped up is a matter which goes against the prosecution especially when the lady is grown up, mature, educated and remained silent throughout nor shared it with anyone and had the audacity to level such unsubstantiated allegations after she was thrown out of the job are matters which have adverse impact to the case of the prosecutrix. Recently, it has become a matter of common knowledge that such allegations are levelled for a motivated cause to pressurize and coerce the opposite side to submit to illegitimate and illegal demands of the complainant. The lady admits that she has been thrown out of her job since a long time prior to the registration of the FIR and coupled with the documentary evidence of litigation between the teachers and school management substantiates the fact that there is every likelihood of false implication of the petitioners on certain graver charges. This Court understands that to make job of the complainant permanent, the petitioners might have asked for

money to be paid to certain officials and to which she had paid Rs 1 lac after getting her from her father this Court cannot doubt over such a veracity at this juncture and so the fact that the petitioners by their acts might have outraged the modesty of the lady but the allegations that hover around Section Section 3(xii) of SCST Act are totally without essential elements or evidence.

The complainant has no where alleged that she or her caste has been demeaned publicly by the accused or ridiculed or that any word or expression has been used which could fell within fore-corners of Section 3(xii) of the said Act to bring about a charge under these provisions which needs to be established that the accused knowingly that the complainant belongs to a particular caste in order to demean her and her caste had intentionally done so. To the specific query of the Court counsel for the State could not highlight any evidence on the records which could attract commission of these offences.

In Criminal Appeal No. 707 of 2020 titled as **Hitesh Verma Vs. The State of Uttarakhand and another,** the Hon'ble Apex Court observed that the Act was enacted to improve the social economic conditions of the vulnerable sections of the society as they have been subjected to various offences such as indignities, humiliations and harassment. They have been deprived of life and property as well. The object of the Act is thus to punish the violators who inflict indignities, humiliations and harassment and commit the offence as defined under Section 3 of the Act. The Act is thus intended to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community.

The basic ingredients of offence under the Act can be classified as (i) intentionally insults or intimidates with intent to humiliate a member of Scheduled Caste or a Scheduled Tribe and (ii) within the public view and the mere fact that the

complainant belong to the SC/ST Caste would not be enough to attract the commission of offence when there is no overt act attributed to the accused/petitioners. Nothing is suggestive from the evidence on record to hold out that the accused petitioners committed offence under the SC/ST Act, only because the complainant belong to that caste and, therefore, the very attraction of such an offence is highly doubtful.

In view of what has come about before this Court and having regard to the entire facts and circumstances in view what has come about on file before this Court there has been gross miscarriage of justice by the impugned order whereby charges under Sections 376 IPC and Section 3(xii) of SCST Act have been wrongly and illegally framed and to that extent the impugned order is highly perverse, illegal, unwarranted and contrary to the evidence that is there on the records and is set aside qua framing of these charges against the petitioners.

In the light of the foregoing discussions, the

impugned order is partly set-aside as to framing of charge
Sections 376 IPC and Section 3(xii) of SCST Act and rest of the
order is upheld in view of which the instant petition is partly
allowed and the impugned order is modified accordingly.

Disposed off.

October 04, 2021

(FATEH DEEP SINGH)

amit rana

JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No