

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

**CRM-M-41908-2017
DECIDED ON: 1st APRIL, 2022**

DAVENDER SINGH MOR @ DEVENDER SINGH MOR

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Keshav Partap Singh, Advocate
for the petitioner.

Mr. Vijesh Sharma, Addl. AG, Haryana.

None for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

The instant petition under Section 482 of the Code of Criminal Procedure 1973 has been filed seeking quashing of criminal complaint No.12, dated 9th February, 2016 (Annexure P-1), under Sections 3, 4 and 5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'), titled as **“Jaswinder Singh vs. Devender Singh Mor”** as also the order dated 20th March, 2017 (Annexure P-2) whereby, the petitioner has been summoned to face trial under the Act.

The brief facts of the case are that the complainant/respondent No.2 filed a complaint dated 2nd July, 2015 before the police with the allegation that petitioner made a caste coloured remarks against the complainant/respondent No.2 but to no avail.

Learned counsel for the petitioner submits that the petitioner was Director/Principal, Ch. Devi Lal, State Institute & Technology, Panni Wala Mota, Sirsa and the complainant/respondent No.2 was working as Security Officer in the said Institute. He further submits that the complainant was not having professional training for the said job and was thus, removed from service. Having grudge towards the petitioner for removing him from job, the complainant has levelled the allegations against the petitioner of using caste related words and stealing his personal documents. Vide enquiry reports (Annexures P-5 and P-6), petitioner was found innocent and the said complaints were found to be made with an intention to put pressure. He further submits that the petitioner was not aware of the fact that the complainant/respondent No.2 belongs to lower caste which had been notified as Scheduled Caste.

Learned State counsel submits that detailed inquiries were conducted by the Deputy Superintendent of Police, Sirsa and Superintendent of Police, Sirsa wherein, the allegations in the complaint were found to be devoid of merits. He relies upon para 2 of the preliminary submissions in the reply dated 25th January, 2018 of Deputy Superintendent of Police, Dabwali, Sirsa, filed on behalf of the State which reads as under:-

“2. That respondent No.2 had also moved a complaint to the police of P.S. Odhan on 2.7.2015 against the petitioner, which was inquired into by the Deputy Superintendent of Police, Sirsa and the same was found to be devoid of merit. The Deputy Superintendent of Police, Sirsa vide his office memo no.155-C dated 31.7.2015 submitted his detailed inquiry reply on the complain of respondent no.2 to the Superintendent of Police, Sirsa. A news item was got

published in this regard and the Deputy Commissioner, Sirsa vide his office memo no. 3222/C.E.A. dated 24.7.2015 and No.3133/C.E.A. Dated 16.7.2015, required the Superintendent of Police, Sirsa to inquiry into the same. The Superintendent of Police, Sirsa vide his office memo no. 1979-POI dated 24.8.2015 submitted his inquiry report to the Deputy Commissioner, Sirsa and concluded that the allegations in the said news item is devoid of any merit in it.”

Even otherwise, as per the settled law, allegations in the complaint must show that the concerned person was called by his caste in order to humiliate, insult and intimidate and also that offending person was having the knowledge that the complainant belonged to the Scheduled Caste & Scheduled Tribe. From the reading of the complaint or the statements of the witnesses examined from the complainant side, it is nowhere stated that the petitioner was aware of the fact that the complainant belonged to Scheduled Caste. Therefore, prima facie the essential ingredient of the offence is not fulfilled. Further, DSP and SP in their inquiries, did not find any substance in the allegations of complaint and the complainant made the complaint only on the following day of minutes of the meeting in anticipation of his removal from service as he was not fulfilling the requisite criteria fixed for the post of Security Officer. It has come on record in the inquiry report of Superintendent of Police, Sirsa that complainant was 22 years of age and was not having any professional training for the said post. This shows the intention of complainant behind making the complaint.

In view of above, the present petition is, therefore, allowed and the impugned criminal complaint No.12, dated 9th February, 2016

Singh vs. Devender Singh Mor” and the impugned summoning order dated 20th March, 2017 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Dabwali, are quashed.

1st APRIL, 2022
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>