

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

CRR No.814 of 2021

Reserved on :07.01.2022

Pronounced on: Feb. 28, 2022

Ramesh Kumar Balmiki

.....Petitioner

Vs.

Variender and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Susheel Gautam, Advocate for the petitioner.

Mr. Chandan Singh Rana, Advocate
for respondents No.1 to 4.

Mr. Rajat Gautam, DAG, Haryana.

(Through Video Conferencing)

ANOOP CHITKARA J. (ORAL)

Aggrieved by the dismissal of application by the Special Court for issuance of directions to concerned Superintendent of Police Station House Officer to take legal action on complaint dated 06.11.2020 for registration of an FIR under Section 3 (1) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act (in short 'SC/ST (POA) Act') read with Sections 166-A, 217, 324, 307, 406, 506, 120-B 34 IPC the complainant (petitioner herein) has come up before this Court.

Vide order dated 09.07.2021, learned Special Court in SC/ST (POA) dismissed the application by assigning the reasons. The Court did not find a prima facie case made out on the allegations of the applicant for referring the complaint to the police for registration of FIR and for further investigation, the Court also referred that the applicant failed to supply any property documents for arriving at such decision. The Court further observed that the complainant counsel has been asked whether he wants to get his application treated as a private complaint and to

proceed with the same and he specifically made a statement that he did not want to get the application to be treated as private complaint. Consequently, the concerned Court dismissed the application.

Aggrieved by such order, the complainant filed the present Criminal Revision under Section 397 as is apparent from the opening sheet format.

I have heard learned counsel for the petitioner, complainant as well as for the State and also gone through the case file.

The case of the petitioner was that on an application moved by accused No.4, a case was registered against the petitioner, his wife and his son on 27.02.2019 by accused no.1. Subsequently, accused No.1 took *zama talashi* of the applicant-petitioner and locked him in the police lock up at 5 p.m. After that on 28.02.2019, the accused No.1 pressurized him that in case the petitioner vacates the house, then he will cancel the FIR registered against him. When the applicant refused to agree on this bargain, then the accused No.1 showing his police power attacked the applicant with sharp edged knife and caused serious injuries to the him. Subsequently, in order to save himself, accused No.1 lodged false case under Section 309 IPC against the applicant-petitioner and also threatened him. The applicant annexed MLC issued by Civil Hospital, Panipat.

In response to the Criminal Revision, the State has filed the Status Report by way of an affidavit of Virender Singh, Inspector /In-charge, Crime Investigating Agency-2, Panipat. The relevant paragraph No.4 of the same is extracted as follows:-

“ That the petitioner has concealed the facts, from this Hon'ble Court that the police had been enquiring the matter from the petitioner on 28/02/2019 at the premises of Police Station Quilla, Panipat while his arrest in FIR No.127 dated 27/02/2019, u/s 354A, 506, 34 of IPC, P.S. Quilla, Panipat. The petitioner said that he wants to pass the urine. He was taken by the police under surveillance at the bathroom of the police and then the petitioner in very clever manner succeed to take the blade of daily routine use by chance lying there and caused hurt to his body himself with the intention to commit suicide with self Inflicted injures. The police officials hardly succeed to take back the said blade from him. Thus on the complaint of HC Amrit Lal No.1074 an FIR No.130 dated 20/09/2019, u/s 309 of IPC was registered against the petitioner.”

A perusal of the affidavit reveals that the petitioner wanted to pass the urine and under the police surveillance, he was taken to the bath room. It is further stated in the affidavit that the petitioner in clever manner succeeded to take the blade of routine use by chance lying there and inflicted injuries upon himself. In a police Station the applicant was taken under Surveillance in the bath room then how blade of daily routine was lying there by chance. The fact that it was lying there reveals either utter negligence of the concerned office-in-charge of the police Station or in the alternative, the allegations of the applicant prime facie need to be looked into. In both ways the inquiry report is absolutely cryptic and incomplete.

Given above, the petition is allowed; the impugned order is set aside and the concerned Superintendent of Police is directed to either inquire in this complaint on her own or get investigation conducted through an officer not below the rank of Deputy Superintendent of Police. It is further clarified that in case enquiry report believes that a blade of daily routine was lying in the bath room and then how such blade was lying and who were erring police officials, a suitable action should be considered against them. In case SP/DSP concluded in their enquiry that allegations causing injuries are true then appropriate FIR be registered under the provisions of IPC. Needless to say that in case Investigator also conclude SC/ST if made out, then the concerned provisions be also added, otherwise the proceedings be conducted under the provisions of IPC, if any.

The petition is allowed to the extent as mentioned above.

The concerned enquiry be completed positively within two months from the receipt of certified copy of this order.

The petitioner be also associated in the enquiry.

(ANOOP CHITKARA)
JUDGE

February 28, 2022

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