

228 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30802-2019

Date of Decision:05.12.2022

JAGDEEP AND ANR

..... Petitioners

Versus

STATE OF HARYANA AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ashok Arora, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Section 482 Cr.P.C is seeking quashing the criminal proceedings initiated in FIR No.12 dated 15.01.2019 (Annexure P-1) registered at Police Station Agroha, District Hisar, under Sections 323, 325, 506 and 34 of Indian Penal Code and Section 3 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioners submits that the matter was initially investigated by Deputy Superintendent of Police, who did not find petitioner guilty. The second investigation was conducted by another DSP, who formed a total different opinion. Accordingly, the challan was presented. The petitioner was arrested on 27.01.2019 by DSP, Hisar and thereafter he was released on regular bail. There is no averment *qua* SC/ST Act in the FIR still second investigation was conducted and there is no provision under Cr.P.C which permits second investigation. It is a case of abuse of process of law and misuse of power.

Learned State counsel on instructions from Investigating Officer submits that there is no bar in second investigation. The respondent No.2 in his supplementary statement which was recorded on 20.01.2019 alleged that words regarding caste were used by petitioner, accordingly, second investigation was conducted. The DSP arrested the petitioner and thereafter challan was presented. There are total 16 prosecution witnesses and 10 has already been examined. She further submits that all the material witnesses have already been examined and next date before the Trial Court is 11.01.2023. The matter is pending before Learned Additional Sessions Judge, Hisar.

I have heard the arguments and perused the records.

From the arguments of both sides, it comes out that respondents No.2 in his initial statement did not allege the commission of offence punishable under SC/ST Act. The police conducted investigation and did not find the petitioner guilty of commission of offence under Indian Penal Code as well as Scheduled Caste and Scheduled Tribes Act. Second investigation was conducted on the basis of supplementary statement of respondent No.2 and accordingly petitioner was arrested and thereafter challan was presented. The prosecution has already examined 10 witnesses out of 16 witnesses.

It would not be in the fitness of things and interest of justice to quash the proceedings at this belated state, however, in view of the fact in the first investigation, the petitioner was not found guilty, it would be appropriate that trial is expedited and concluded at the earliest. Accordingly, Trial Court is requested to expedite the trial and preferably examine all the prosecution witnesses by 15.01.2023. The Trial Court

shall keep in mind mandate of Section 309 of Cr.P.C, Articles 19 and 21 of the Constitution of India as well as judgments passed by Hon'ble Supreme Court in *Hussaina Khatoon Vs. Home Secretary, State of Bihar 1980 1 SCC 81, Abdul Rehman Antulay Vs. R. S. Nayak, (1992) 1 SCC 225 and P. Ramachandra Rao Vs. State of Karnataka, (2002) 4 SCC 578.*

The present petition is disposed of in the above terms.

(JAGMOHAN BANSAL)
JUDGE

05.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>