

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23555-2013 (O&M)
Date of Decision: May 30, 2023

Babu Lal

.....Petitioner

Versus

Rahul and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Aman Bahri, Advocate for respondents No.1 & 2.

None for respondents No.3 and 4.

HARKESH MANUJA, J

1. By way of present petition under Section 482 Cr.P.C., prayer has been made for setting aside the order dated 28.05.2013(P-5) passed by learned Additional Sessions Judge, Palwal; upholding the order dated 06.11.2012(P-3) passed by learned Additional Chief Judicial Magistrate, Palwal dismissing the complaint of the petitioner under Sections 324, 326, 217, 452, 307, 34 IPC and Sections 3, 4, 5 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Act").

2. Briefly stating, facts of the case are that petitioner filed a complaint against the respondents to the effect that on 27.05.2012 at about 08:00 am, his son, namely, Jagdish along with Karamchand was going on cycle to Ballabgarh and when they reached outside Village Harphali, then respondents No.1 & 2 attacked Jagdish and

gave lathi blows on his head as well as other parts of the body and upon hearing noise, villagers reached at the spot and saved his son. Rakesh and Karam Chand took Jagdish to the clinic at Village Softa from where he was referred to Government Hospital, Palwal. Petitioner and his brother Amar Singh took Jagdish to Palwal, where the concerned Medical Officer examined the injured and prepared MLR and thereafter, he was referred to B.K. Hospital, Faridabad and remained admitted there till 01.06.2012. When the condition of son of petitioner got deteriorated, he got admitted at Sun Flag Hospital, Sector 16, Faridabad. Petitioner and his brother intimated the Police Post, Gadpuri on 27.05.2012 at about 10:00 PM, but despite recording their statements, no case was lodged against respondents No.1 and 2, due to the influence of respondent No.4. Thereafter, respondent No.4 came to the house of petitioner, threatened and pressurized him to compromise the matter otherwise they will be killed. Thereafter, on 28.05.2012, respondent No.4 again came to the house of petitioner along with some bad elements and abused him in the name of his caste by using derogatory language. On 29.05.2012 when petitioner visited Police Post, Gadpuri, respondent No.4 flatly refused to lodge any FIR against respondents No.1 to 3.

3. Aggrieved from the inaction on the part of the authorities, the petitioner approached the Court of learned Additional CJM, Palwal by filing complaint under Section 156 (3) Cr.P.C. for investigation and registration of case against respondents No.1 to 4. Learned ACJM, Palwal, after going through the allegations as well as

medical record came to the conclusion that no prima facie case is made out to summon the respondents and dismissed the complaint vide order dated 06.11.2012 (P-3). Thereafter, the petitioner filed revision petition against the above said order before the learned Additional Session Judge, Palwal, but finding no perversity in the order passed by the learned ACJM, Palwal, the same was also dismissed vide order dated 28.05.2013 (P-5).

4. It is the aforesaid orders which have been impugned by way of present petition.

5. Learned counsel for petitioner has vehemently argued that though sufficient evidence was adduced by the petitioner to substantiate the allegations in the complaint, but both the courts below have wrongly dismissed the complaint lodged against the accused persons. He submits that both the courts below have also failed to appreciate that in order to prove his case, the petitioner examined himself as CW-1, Lal Chand as CW-2 and Amar Singh as CW-3 and placed on record affidavit dated 05.06.2012, application dated 29.05.2012 addressed to SSP Palwal, postal receipts, MLR as Ex. CW-7, Bed Head Ticket as Ex. CW-8, NCCT Brain dated 27.05.2012 as Ex. CW-9, discharge slip Ex. CW-10, receipt of Sun Flag Hospital as Ex. CW-11, prescription as Ex. CW-12, true copy of MLR, NCCT Brain, Bed head ticket of B.K. Hospital and advance receipt of Sunflag Hospital with regard to the admission of Jagdish, which clearly proved the contents of complaint beyond any shadow of doubt. He further contends that accused is also liable to be punished

under relevant sections of the Act, as respondent No.4 abused the petitioner and passed derogatory remarks about his caste.

6. On the other hand, learned counsel for respondents No.1 and 2 has strongly supported the judgments passed by the courts below while submitting that the same are absolutely in accordance with the legal proposition of law applicable to the facts and circumstances of the case in hand. He further informs this Court that respondent No.1 has died during the pendency of present petition.

7. Having heard learned counsel for the parties besides gone through the judgments passed by both the courts below, I am unable to find any substance in the submissions made on behalf of the petitioner.

8. As per the version of complainant, on 27.05.2012 at about 8:00 a.m. his son, namely, Jagdish was going to Ballabgarh with Karam Chand on bicycle and respondents No.1 and 2 attacked his son with lathis, but both these persons have not been examined by the complainant for the reasons best known to him. Even, no Doctor from Village Softa, Government Hospital, Palwal, B.K. Hospital, Faridabad or from Sun-flag Hospital, Faridabad has been examined. Moreover, there was no allegation against respondent No.3 in the entire complaint. In addition, as per report under Section 202 Cr.P.C., respondents No.2 and 3 have been dragged due to party faction. It has also been mentioned in the report that on 02.06.2012, an application was moved for obtaining the X-ray report of Jagdish and it was found that no x-ray of injured Jagdish was conducted. In fact,

injured-Jagdish and complainant-Babu Lal got their statements recorded on 11.07.2012 to the effect that they compromised with Phool Singh and complainant does not want to take action on his complaint. As regard passing of remarks about caste of petitioner is concerned, respondents No.1 and 2 are Balmiki by caste, therefore, offence under Sections 3, 4, 5 of the Act was not made out. So, all these above factors coupled with each other leaves to draw inference that the allegations levelled in the complaint are untrue and both the courts below have rightly dismissed the complaint. Even otherwise, during the course of arguments, learned counsel for the petitioner could not point out any illegality, perversity or infirmity in the orders passed by both the courts below.

9. In the light of what has been discussed hereinabove, this Court does not find any merit in the instant petition. Consequently, the same is dismissed.

30.05.2023
sanjay/sonika

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no