

Neutral Citation No. 2023:PHHC:082066
**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRR-822-2007

Reserved on : 05.05.2023

Date of decision: 01.06.2023

Harbhajan Dass

....Petitioner

Versus

Ranjit Singh and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Munish Gupta, Advocate and Mr. N.S. Gill, Advocate
for the petitioner

Mr. K. S. Dadwal, Advocate and Mr. Naresh Kumar, Advocate
for respondent Nos.1 and 2

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J.

1. The present revision petition has been preferred against the judgment dated 01.02.2007, passed by learned Special Judge, Hoshiarpur whereby, accused-respondent Nos.1 and 2 were acquitted of the charge framed on the basis of SC/ST Act Complaint No.1 of 09.01.2006 filed under Section 3(i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Concisely, the complainant-petitioner had submitted a written complaint to SHO PS City Hoshiarpur, but as no action had been taken, a complaint was filed before the Magistrate stating therein that, on 11.01.2005 at 4:00 pm, the complainant-petitioner, who is Ad-dharmi by caste, recognised as scheduled Caste by the State of Punjab, was talking to Om Parkash Sood, owner of

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“Sood Sanitary Store”, when respondent No.1- Ranjit Singh, who is Jatt by caste and respondent No.2- Manmohan Singh Bindra, Khattri by caste, reached the spot in a Maruti car bearing No. PB-07-M-4858 and became furious upon seeing him and allegedly uttered derogatory words. There also exists previous enmity between the parties.

3. The complainant, to prove his case, stepped into the witness box as PW1, but examined one more witness, while giving up the other two. After taking into consideration the certificate of scheduled caste, Ex. PA, and the statements of the witnesses, the respondents had been summoned to face the trial. On closing of the prosecution evidence, statements of the accused-respondents were recorded under Section 313 Cr.P.C. and all the incriminating material were put to them, who denied the same. They alleged false implication and pleaded innocence.

4. On evaluating the evidence and hearing the counsel for the parties, the trial Court came to the conclusion that the prosecution could not prove the guilt of the accused-respondents and thus, they were acquitted from the charge levelled against them.

5. Hence, the present revision petition.

6. The learned counsel would contend that the complaint was filed by the complainant-petitioner on account of an incident that took place on 11.01.2005, whereby the respondents upon seeing him in a market had hurled abuses towards him and uttered derogatory words regarding his caste, since he was a Scheduled Caste. The said act was done in a public place to humiliate and insult him, causing atrocity towards him. Further, the trial Court had wrongly acquitted the accused-respondents by taking into consideration that previous litigation was going on between the parties and due to that reason, the present complaint was filed. The petitioner had filed various complaints and representations against respondent

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No.1, who had allegedly grabbed the government land regarding which a civil litigation is pending, and as per a report dated 24.05.2004, submitted by the PCS, Joint Secretary to Govt. of Punjab after conducting an inquiry, it was stated that it would be advisable to get the same examined legally to take necessary steps to safeguard the interest of the government. The same should have been seen as the motive of accused-respondents to cause humiliation to him.

7. Per contra, the learned counsel for respondent Nos.1 and 2 would submit that the learned trial Court, after appreciating every aspect of the matter, had rightly acquitted the accused-respondents.

8. Heard the learned counsel for the parties and perused the record.

9. It would be apposite to refer to the judgment passed by the trial Court while acquitting the accused-respondent, the relevant paras whereof read thus:

“22. So far as accused Manmohan Singh is concerned he appears to have been targeted by complainant Harbhajan Dass at the instance of PW-2 Om Parkash Sood. It has been admitted by Om Parkash PW-2 that FIR under sections 326/324/34 IPC was registered against Aman Sood son of Om Parkash Sood PW-2 and others at the instance of Manmohan Singhand an application moved by Aman Sood in the aforesaid criminal case for regular bail was declined. The aforesaid occurrence also took place in the house of the in-laws of Manmohan Singh who are putting up their residence on the floor on the floor of the shop of Om Parkash Sood as tenant. Here it would not be out of place to mention that Om Parkash Sood while subjected to cross-examination has categorically denied the institution of any ejectment petition against Joginder Singh father-in-law of Manmohan Singh by his wife which fact otherwise stands established. Though Om Parkash Sood PW-2 has started that mother-in-law of Manmohan Singh alongwith her son Maninder Pal Singh is living as tenant on the first floor of his shop and voluntarily stated that Manmohan Singh does not resides with his mother-in-law but this fact has been categorically admitted by Harbhajan Dass complainant while subjected to cross-examination that Manmohan Singh accused alongwith his family is residing on the first floor of the building owned by Om Parkash Sood.

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24. No doubt, filing of any Written complaint to the police prior to the institution of regular complainant in the court of Ld. Illaqa Magistrate is not a pre-condition but in the case-in-hand, it is affirmative stand of Harbhajan Dass that immediately after the occurrence, he moved written complaint to the S.H.O police Station, City Hoshiarpur but to the utter surprise, no such complaint or copy thereof has been the light of the day. I could have been easily summoned from the concerned police station which could have been helpful to the prosecution in explaining delay in filing instant complaint. Instant occurrence is alleged to have taken place on 11-1-95 but the complaint was got typed on 25.1.05 and was filed in the court on 27.1.05 but no cogent or convincing or plausible explanation has been furnished for delay in filing the complaint. Had there been a complaint or copy thereof on the record of this case, alleged to have been moved by the complainant, it could have been inferred that the police remained inactive after its filing but mere assertion that the police did not take any action is not sufficient in this regard. No neighbor, who could have been termed to be an independent witness has been examined by the prosecution. In case,, the occurrence had taken place in the busy bazaar, some other shop keepers would have also witnessed the same but not even a single witness from the adjoining locality has been examined, except Om Parkash Sood, who otherwise appears to have been hand-in-glove with the complainant.” (emphasis supplied)

10. As is apparent from the record of the present case, complainant had been after respondent No.1, and not only him, but also his sons had filed multiple civil suits and criminal cases against the respondents, a fact which was admitted by the complainant himself. An FIR was got registered under Sections 323, 324, 326 IPC by Manmohan Singh-respondent No.2 against the son of PW-2. Not only that, he had also tenanted the first floor of the shop of PW-2. Om Parkash Sood, in his cross-examination had categorically denied that his wife had filed an ejectment suit against the father-in-law of respondent No.2, a fact which is established. Further, there are inconsistencies in the statements of both the PWs, whereby, complainant

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in his cross examination had admitted that respondent No.2 resides on the first floor of building owned by PW-2 with his family, whereas PW-2 stated that mother-in-law of respondent No.2, along with her son was residing there. Additionally, the complaint was filed after a delay of 14 days from the date of occurrence, which remained unexplained. In this regard, no evidence or proof is adduced to attribute the same to any failure on the part of police to take any action. Furthermore, no independent witness from the busy market, where the occurrence had allegedly taken place, have been joined, except the two PWs, who have previous enmity with the respondents.

11. This Court in **Ram Partap vs. Rajesh Kumar**, 2014 SCC OnLine P&H 8659 relied upon the dictum of **Jagannath Choudhary vs. Ramayan Singh**, (2002) 5 SCC 659, wherein while expounding on the scope of revisional jurisdiction of the High Court, Hon'ble The Supreme Court had held that, "Incidentally object of revisional jurisdiction of the High Court as envisaged under Section 401 CrPC, is to confer upon superior criminal courts a kind of paternal or supervisory jurisdiction, aimed at correcting miscarriage of justice arising from misconception of law, irregularity of procedure, neglect of proper precautions of apparent harshness of treatment which result, on the one hand, in some injury to the due maintenance of law and order, or, on the other, in some undeserved hardship to individuals."

12. Hon'ble The Supreme Court in the case of **Hydru vs. State of Kerala**, (2004) 13 SCC 374, discussed the ambit of powers of revisional Court in revision against acquittal by a private party and held the same to be very limited. It was observed that interference can only occur if there is any procedural irregularity or material evidence has been overlooked or misread by the trial Court.

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13. In the instant case, neither there is any glaring defect in the procedure nor miscarriage of justice is caused to the complainant, who had failed to bring home the guilt of the accused persons successfully, hence the need to invoke and use the revisional jurisdiction of this Court has not arisen.

14. After a thorough evaluation of the facts and circumstances of the present case in view of the foregoing pronouncements, this Court is of the view that there is no illegality or perversity in the impugned judgment that may call for any interference.

15. As a sequel thereto, the revision petition is sans merit, hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

01.06.2023
Mehak

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