

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

251

CWP-9748-2022
Date of Decision: 13.12.2023

PARKASH

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rajesh Khandelwal, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking issuance of directions to the respondents to consider the complaint dated 30.10.2021 (Annexure P-21) and to lodge an FIR in view of the judgment/directions issued by the Hon'ble Supreme Court in the matter of **'Lalita Kumari Versus Government of U.P.', reported as (2014) 1 SCC (Criminal) 524** as well as advisory dated 12.10.2015 issued by the Ministry of Home Affairs.

Counsel for the petitioner has argued that the petitioner is a senior citizen of 70 years of age and belongs to Scheduled Caste and works as a field labour on *Hissa Batai* in the fields of accused Sunil @ Sonu son of Balwan and his father, both residents of village Thurana, Tehsil Hansi, District Hisar (having 37 acres of land on contract) since 2019 alongwith his other family members. He argued that the hand of Savitri –wife of the petitioner was fractured and the petitioner requested the accused persons to pay the wages for

treatment of his wife, however, the accused refused to do the needful and hurled abuses in the name of the caste of the petitioner and also gave beatings to him. A threat was also extended to kill him. A complaint in this regard was submitted by the petitioner to the office of Superintendent of Police, Hansi, Hisar vide Diary dated 10.10.2021 on which no action was taken. Yet another complaint dated 13.10.2021 was also submitted to the office of Inspector General of Police, Haryana vide diary dated 18.10.2021, which was forwarded to the Superintendent of Police on 19.10.2021 and then to the Station House Officer concerned on the same day for necessary action. However, as no action was taken, hence, proceedings were initiated by means of instant petition and for disregard to the directions given by the Hon'ble Supreme Court in the matter of '**Lalita Kumari Versus Government of U.P.**' (*supra*).

A short reply by way of an affidavit of Safiuddin, HPS, Deputy Superintendent of Police, Narnaund had been filed. The relevant extract of the same reads thus:

"2. That the brief facts of the case are that complainant-petitioner, Parkash son of Ghasi Ram resident of Thurana submitted a complaint in the office of Superintendent of Police, Hansi, which was sent to SHO Police Station Narnaund vide Diary No. 902-PU dated 07.07.21, same was received in Police Station Narnaund (Respondent No.5) SI Surender Kumar 1508/HSR verify the facts of the complaint. During the verification statements of complainant-petitioner and alleged persons (Sunil @ Sonu and his father Balwan resident of Village Thurana, Tehsil Hansi) which were named by complainant- petitioner were recorded individually and found that complainant's-petitioner's son Ramu worked as a labourer (farmworker) in the above said alleged persons field for one year i.e. May, 2020 to April, 2021 in lieu of the fifth part of total earning from the crop. In the month of April, 2021 both the

parties tally amount of their accounts and found that the petitioner will pay Rs.87000/- to the alleged persons. After verification of facts and preliminary investigation the matter was found to be regarding money transactions and no caste abusing words were used by anyone. After verification of the facts it was found that allegations leveled by the complainant/petitioner were not correct. On 11.08.2021 the said inquiry report was submitted before DSP, Narnaund and the same was forwarded to Superintendent of Police, Hansi and same was filed on 19.08.2021 attached herewith as Annexure R-1.

3. That on 12.07.2021 the petitioner has moved another complaint in the office of Labour Officer, Hisar regarding recovery of above said amount from alleged persons namely Sunil @ Sonu and his father Balwan resident of Village Thurana, Tehsil Hansi Distt. Hisar. In this complaint complainant-petitioner has neither mentioned the matter of labour amount nor about the words related to any caste abusing. On dated 07.09.2021 land owner Sunil @ sonu filed his reply in court/office of Labour Officer. Both parties were present in the labour office but could not settle the dispute. Labour officer, Hisar advised to complainant/petitioner to file a case under proper authority before competent court. A copy of the proceedings dated 07.09.2021, 14.09.2021 and 17.09.2021 passed by Labour Officer is attached herewith as Annexure R-2.

4. That the complainant/petitioner has sent another application by registered post in the office of the Inspector General of Police Hisar Range, Hisar which was received vide Diary No. 6346 on dated 13.04.22 and same was forwarded to the Superintendent of Police Office Hansi. And same was received vide Diary No. 121-PSPL-II dated 22.04.22. The claim/grievance in the above said application was that FIR is lodged against the accused for abusing caste based words and the wages amount of complainant-

petitioner be recovered. On said application FIR No. 283 dated 31.05.2022 at Police Station, Narnaund under sections 323/506/34 of IPC and under sections 3(1)(r)/3(1)(S)/33/89 of SC/ST Act was registered against Sunil @Sonu and his father Balwan resident of Village Thurana, Tehsil Hansi Distt. Hisar. That the prayer of the complainant/petitioner has now become fructuous as the FIR No. 283 dated 31.05.2022 is already registered in Police Station Narnaund.

5. That as per Rule no.7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, A special team headed by Saffiuddin HPS, DSP Sadar Hansi/deponent and Respondent No.5 has been constituted for investigation of the above case FIR No. 283 dated 31.05.2022 under section 323/506/34 of IPC & 3(R)(S) of SC/ST Act at Police Station, Narnaund by the order of Respondent No.4 bearing no. 24011-14 dated 01.06.2022 and further given the directions to the SIT so constituted, that it will carry out the investigation of the above said case regularly on day-to-day basis. A copy of order dated 01.06.2022 is annexed herewith as Annexure R-3.

6. That on dated 02.06.2022 SIT and staff members visited the place of occurrence Dharamsala/ Panchayat Ghar of Village Thurana, on that time the following persons i.e. i) Parkash son of Ghasi Ram, ii) Savitri wife of Parkash, iii) Jagbir son of Mangal Ram, iv) Balbir son of Chandgi Ram, v) Surajmal (Ex. Sarpanch) son of Teka vi) Sandeep son of Jaibir, vii) Kuldeep son of Ramniwas, viii) Azad son of Hari Ram, ix) Satyawar son of Hawa Singh, x) Mahabir son of Diwana all residents of Village Thurana were present there. Petitioner said that it is the place where caste abusing words were said by the alleged persons. Upon this SIT deposed the fact of the case to persons present there to verify the facts of F.I.R. A site plan of place of occurrence was also prepared. After the investigation on that day complainant-

petitioner has been directed to produce his SC certificate and alleged persons which were blamed by complainant-petitioner were directed telephonically to come on 03.06.2022 before SIT in his office.

7. *That on dated 03.06.2022 following persons came to SIT office namely i) Parkash son of Ghasi Ram, ii) Rammehar son of Parkash, iii) Ramkishan son of Parkash, iv) Sonu son of Jaibir, v) Ramdas son of Fateh Singh, vi) Balbir son of Chandgi Ram, vii) Deepak son of Dilbagh, (Complainant-petitioner side) and i) Sunil @ Sonu son of Balwan Singh, ii) Balwan son of Lakhi Ram, iii) Chatar Singh son of Chandgi Ram, iv) Surat Singh son of Baje Ram, v) Ramesh son of Lakhiram (Defendants side) all residents of Village Thurana and deposed the facts of the case. SIT verified the facts of case from the complainant/petitioner, alleged persons and all other persons who were present there. SIT directed both the parties to produce all the records regarding their land and crop accounts before SIT on Monday i.e. 06.06.2022 and complainant/petitioner, Prakash was directed to produce his Scheduled Caste Certificate also.*

8. *That on dated 06.06.2022 following persons namely i) Parkash son of Ghasi Ram, ii) Rammehar son of Parkash, (Complainant-petitioner side) and i) Sunil @ Sonu son of Balwan Singh, ii) Balwan son of Lakhi Ram, iii) Pawan Kumar son of Chandgi Ram, iv) Surat Singh son of Baje Ram, v) Ramesh son of Lakhiram all residents of Village Thurana came in the office of SIT. Deposed the case facts to them and statements of all members including present complainant/petitioner, alleged persons and other persons present there have been recorded under section 161 of Criminal Procedure Code and also perused the documents which were produced by the complainant/petitioner and alleged persons regarding money transactions.*

9. *The SIT constituted has been provided with labour office documents and SC certificates his also and the same was taken on record through seizure memo. SIT has also recorded the statement under section 161 of Cr.P.C. of complainant/petitioner and also recorded the statement of HC Jitender No. 99/Hansi. Complainant/petitioner Prakash was directed to also present the names and numbers of land owners whose land was cultivated by him. But complainant/petitioner has not come present with the names and numbers of those land owners till now. So that the allegations leveled by the petitioner could not classified. At per facts/evidences which have come on file, it was found that Rs.87000/- was the outstanding amount towards the complainant/petitioner which was given to alleged persons and the matter was found of only money transaction. The above said case is still under investigation.*

10. *That, in this regard, it is most humbly stated before the Hon'ble High Court that the complainant/petitioner is not entitled to any relief because FIR has already been registered and no true facts found as per the application version and the petition under Article 226 of Constitution of India is liable to be outrightly rejected being devoid of any merits therein.*

11. *That, on the other hand, the complainant/petitioner has filed a petition for registration of FIR which has been already registered and same is under investigation. It is therefore prayed that strict action should be taken against the complainant/petitioner because the complainant-petitioner is wasting the valuable time of the Hon'ble court and impose heavy cost against the complainant/petitioner.”*

Further, vide order dated 14.11.2021, the respondent-State was also directed to file a report with regard to the compliance of the provisions of Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 and the reasons for delaying the completion of investigation. In compliance thereto, status report by way of an affidavit of Deputy Superintendent of Police, Narnaund dated 27.12.2022 has been filed, which reads thus:

4. *That after registration of case a Special investigation Team was constituted in view of the provision contained in rule 7 of SC/ST Act, 1989.*
5. *That the Special Investigation Team has conducted investigation of this case. During course of investigation, the special investigation team visited the place of occurrence Le. Dharamshala of village Thurana on 2.6.2022 where the respectable persons of the village Thurana including both the parties were found present. The statements of witnesses have been recorded. As per investigation and enquiry made from the prominent persons of village Thurana who were present at that time in Dharamshala/Panchayat Ghar Thurana and found that Sunil and Balwan did not give any abuse pertaining to caste and creed and the allegations of SC/ST could not be proved. Thereafter both parties along with respectable persons of the village visited the office of SIT and record pertaining to land cultivated by the son of the petitioner, to sale of crops, share of both the parties were taken in to police possession. Caste Certificate of the petitioner was also taken in to police possession. Thereafter on 3.6.2022 and 6.6.2022 both the parties alongwith prominent persons of village Thurana visited the office of Special Investigation Team and record pertaining to 32 acres of crops of the year 2019-2020 was scrutinized and on scrutiny of record, it has transpired that the total share of son of the petitioner was Rs. 2,63,811/- whereas amount of Rs.3,51,563/- has already been paid to the son of the petitioner by Sunil and Balwan, as such the petitioner himself has to return Rs. 87552/- to Sunil and Balwan, the alleged accused. Statements of Suresh Kumar son of Dhoop Singh, Dilbag son of*

Ved Parkash both residents of village Thurana was also recorded in which they have also stated that the scrutiny of record of the year 2019-2020 was conducted in their presence and as per record, total share of profit of Ramu son of Parkash petitioner was come to Rs.2.63,811/- and he has already been paid Rs.3,51,563/-, as such an amount of Rs.87552/- in excess was paid to the Ramu son of the petitioner, hence allegations of not giving money to Ramu son of Parkash petitioner have not been proved.

6. *XXXXXXXXXXXXXX*

7. *That with regard to appearance of the petitioner before investigating agency, it is submitted that the petitioner did not appear before the SIT on or after 21.11.2022 as directed by this Hon'ble High Court. The petitioner has claimed that he has cultivated 37 acres of land but he has provided record of only 32 acres. The petitioner has not provided record of remaining 05 acres of land till today. The petitioner was issued notice on dated 6.6.2022 and 18.7.2022 but the petitioner refused to receive the notice.*

8. *That during course of investigation, no evidence regarding caste abuse or giving money by Sunil and Balwan to the petitioner came on file, rather a sum of Rs.87552/- is due towards the petitioner and as such a cancellation report has been prepared in this case on 08.12.2022.*

9. *XXXXXXXXXXXXXX*

10. *That with regard to delay in completion of the investigation, it is submitted that the investigation of this case has been completed in a fair and impartial manner and none has displayed negligence in the investigation of this case and as such no action is required to be initiated against any of the employee under section 4 of SC/ST Act. The earlier application/complaint dated 7.7.2021 of the petitioner was on enquired and finalized on 7.8.202, as referred above and the petitioner has not provided the record of*

remaining 5 of land and also refused to take the notice. The allegations leveled in this case have not been proved, so a cancellation report/report under section 173 Cr.P.C. has been prepared in this case on 08.12.2022. The petition of the petitioner deserves to be dismissed being devoid of merit.

Even though aforesaid status report had been filed in December, 2022 and reply by way of an affidavit had been filed by the respondent-State in October, 2022, however, no replication/rejoinder has been filed controverting the same. It is evident from a perusal of the statement filed by the respondent-State that the FIR into the incident was registered and investigation and the offences, as alleged, were found to have not been committed. It is informed by the learned State Counsel on instructions from ASI Munish Kumar, P.S. Narnaund that the police is recommending filing of a cancellation report in the said matter.

Since the prayer in the present petition was to direct the respondents to register an FIR and to conduct an investigation into the same, the needful having been done, there is no necessity of passing any further order in the present case.

The present petition is accordingly disposed of as having been rendered infructuous.

Liberty is, however, granted to the petitioner to pursue his alternative remedies in accordance with law.

DECEMBER 13, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No