

**243 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-24258-2023
Decided on : 01.09.2023

Shamsher Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Kanwer Sanjiv Kumar, AAG, Haryana.

Mr. Pankaj Bali, Advocate
for respondent No.2.

Manjari Nehru Kaul, J.(Oral)

Reply filed on behalf of respondent No.2 in Court today is taken on record subject to all just exceptions.

1. Instant petition has been filed under Section 482 Cr.PC for quashing of FIR No.396 dated 14.10.2022 under Section 506 IPC and Section 3 of SC/ST Act registered at Police Station Parao, District Ambala Cantt. and all subsequent proceedings arising therefrom.

2. As per allegations levelled in the FIR (annexed as Annexure P-1), there was a matrimonial dispute between the complainant (respondent No.2) and her husband Krishan. On an application given by the complainant to the DSP, Ambala Cantt, she and her husband were called to

the police station to work out some settlement. When they appeared on 06.08.2022, the petitioner, who is a sarpanch and was also present along with the estranged husband of the complainant, as his representative, took her aside; he threatened the complainant and further, attempted to pressurize her to agree to the settlement and hand over her children to her husband. However, when the complainant refused to hand over the children and effect any settlement, the petitioner indulged in unparliamentary language besides making casteist remarks against her, as she belonged to the SC/ST category.

3. Learned counsel for the petitioner is primarily seeking quashing of the FIR in question on the ground that it is evidently a dispute *inter se* between the complainant and her estranged husband. The petitioner was present at the police station only as a representative of the husband of the complainant and was merely playing the role of a mediator so as to facilitate a resolution between the parties. Hence, there was no occasion for him to have pressurized the complainant to effect a compromise with her husband or even extend any threats of dire consequences much less indulge in casteist utterances against her. Learned counsel further submits that the complainant is admittedly a police official and thus, in a position of greater authority than the petitioner. Hence, it is highly improbable that the petitioner would have mustered the courage to indulge in casteist utterances against the complainant. Learned counsel still further submits

that even if the contents of the allegations levelled in the FIR are taken to be true, though not conceded, the essential ingredients to attract the mischief of an offence under Section 3 of SC/ST Act would not be made out as it was the admitted case of the complainant-respondent No.2 herself that the offence in question particularly the caste related comments had been made to her by the petitioner, within the precincts of a police station, when both the complainant and the petitioner were engaged in a private discussion amongst themselves. Hence, it was apparent that the alleged casteist remarks had not been uttered “within public view”.

4. Learned counsel has thus, vehemently prayed that in the facts and circumstances and also since the occurrence in question had not taken place “within public view”, the FIR in question qua the petitioner deserved to be quashed as the complainant had an axe to grind against the petitioner, who was present as a representative of her estranged husband at the police station.

5. Per contra, learned State counsel assisted by counsel for the complainant has opposed the submissions made by the counsel opposite and submitted that all his submissions are disputed questions of fact. It has been urged that the complainant had no previous enmity with the petitioner and hence, there was no occasion to plant a false case upon him. It has been further vehemently argued that since the petitioner, who is a Sarpanch, was unable to pressurize the complainant to hand over her

children to her estranged husband, the petitioner not only extended threats to her but did not even hesitate to humiliate her by intentionally making casteist remarks against her, as he was well aware that she belonged to the SC/ST category. It has still further been contended that whether the petitioner made the alleged casteist remarks or not, would be a matter of trial and could not be gone into under Section 482 Cr.PC and all the pleas, which are being raised before this Court, can be raised during trial.

6. Heard learned counsel for the parties and perused the relevant material on record.

7. Before proceeding further, it would be apposite to reproduce Section 3(1)(r) of SC/ST Act, which reads as under:

“3(1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;”

8. Thus, what flows from a minute reading of the above provision of law is that to attract the mischief of Section 3 of the Act, the victim besides belonging to a Scheduled Caste/Scheduled Tribe must be intimidated or deliberately insulted so as to humiliate or degrade him or her “within public view”.

9. The question, which would arise before this Court is as to what could be termed as “public view”? Public view would typically imply something, which is not only accessible but also visible to the general public without any hindrance or restriction.

10. It was vehemently argued by the learned counsel for the petitioner that since the occurrence in question had taken place within the four-walls of the police station, it was beyond public view and hence, would not invite the penalty contemplated under Section 3 of the Act. The question, which arises before this Court is as to whether the remarks made at the police station, which is the place of occurrence and wherein alleged casteist remarks were allegedly made towards the complainant, would fall within the ambit of public view or not? It needs to be emphasized that any place, the physical location of which is open and accessible to general public, would fall within the ambit of a public place and thus, any happening at such a place, would in turn be within public view. In the case in hand as already observed, the occurrence in question took place in the police station, and it cannot be disputed that the police station is a place which is generally frequented by the general public for reporting crimes and seeking assistance etc. of the police. A police station is thus, a government facility, which is used by and for the public at large. “Public place” and “public view” are related issues and are inter-connected. Whatever happens in a police station, which is visited by the general public at large, would naturally be visible to them.

11. The word “Public View” has been interpreted by the Hon’ble Supreme Court in a catena of judgments. In *Swaran Singh and others vs. State and others, 2008(8) SCC 435*, which has been relied upon by the

learned counsel for the petitioner also, the Hon'ble Supreme Court has held as under:

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by appellants 2 and 3 (by calling him a 'Chamar') when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression 'place within public view' with the expression 'public place'. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

12. The Hon'ble Supreme Court in *Swaran Singh and others'* case(*supra*) has categorically clarified that a place can be either a private

place or a public place, and be within public view. This Court has no hesitation in observing that the expression “any place within public view” would extend beyond private settings and would include private place/spaces as well as an enclosed space frequented by the public also. Still further, the alleged casteist remarks were allegedly uttered in the police station wherein apart from the complainant and the accused, other persons including some police officials would have definitely been present.

13. Furthermore, this Court, at this stage, cannot be expected to delve into the truthfulness or otherwise of the allegations levelled. A perusal of the allegations levelled in the FIR in question *prima faice reveals the* commission of the alleged offences against the petitioner.

12. As a sequel to the above and in the light of the language used in the police station, any act done with the deliberate intent to humiliate or to intimidate a person belonging to a SC/ST category within a public place or within the vicinity of public place, would invite the mischief of Section 3 of the Act. Accordingly, the present petition stands dismissed.

13. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

01.09.2023

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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:

Yes

Whether reportable :

Yes