

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

201

2023:PHHC:161619

Criminal Revision No.89 of 2012 (O&M)

Date of decision: December 14th, 2023

Partap Singh and others

.....Petitioners

Versus

State of Haryana and another

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anshuman Dalal, Advocate
for the petitioners.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

Mr. N.R. Dahiya, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J.

The petitioners are impugning the order dated 26.08.2011 passed by learned Special Judge, Rohtak, whereby they have been charge-sheeted to face trial under Section 3 (i) (v) of the Schedules Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC/ST Act'), read with Section 34 of the Indian Penal Code.

2. Learned counsel for the petitioners, *inter alia*, submits as follows:-

2 (i). That the framing of charges against the petitioners by the Court below through the impugned order was, on the face of it, erroneous.

2 (ii). That the essential elements constituting an offence under Section 3 (i) (v) of the SC/ST Act were not made out. Consequently, there existed no valid reason to subject the petitioners to trial. That the

documents on record specifically Annexures P-4 and P-5 i.e. the *jamabandi* for the years 2001-2002 and 2006-2007 attested to the possession of the petitioners on the land of the occurrence in question.

2 (iii). That a civil suit had been filed by the complainant along with his brothers against the Gram Panchayat and petitioners No.1 and 2, qua the land in question.

2 (iv). That the land in question was in the possession of one Bharat Singh and petitioners No.1 and 2 were his legal representatives.

2 (v). That the allegations levelled by the complainant were totally vague. Notably, in the absence of any specific allegation that the occurrence in question had taken place on account of the complainant belonging to the SC category, which is an essential ingredient required to attract the mischief of an offence under the SC/ST Act, the impugned order deserved to be set aside.

3. While controverting the prayer and submissions made by the counsel opposite, the learned counsel for the respondent has, *inter alia*, contended as follows:-

3 (i). That the petitioners have been rightly charged and summoned to face trial under Sections 3 (i) (v) of the SC/ST Act as he had dispossessed the complainant from cultivating the land in question and had instead, started ploughing the land himself.

3 (ii). That it was erroneous to claim that the essential ingredients to constitute an offence under the SC/ST Act were not made out. The complainant while lodging the complaint in question had categorically averred in the complaint that he had been dispossessed being a member of the Scheduled Caste.

3 (iii). That while framing charges, the only consideration which

has to weigh with a count is whether a *prima facie* case is made out or not against the accused, and the defence put forth by him cannot be gone into.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. This Court does not find any error much less illegality in the impugned order. A Court while framing charges has only to consider as to whether the allegations levelled in the FIR/complaint invite the mischief of the offences for which the accused has been charged. The accused cannot produce any documents in his defence at this stage.

6. Though the petitioners have drawn the attention of this Court to Annexures P-4 and P-5 (*jamabandi* for the years 2001-2002 and 2006-2007) to assert their possession of the land in question, however, this aspect cannot be examined by the Court while framing charges as it would be a matter of trial which would be appreciated when both the parties lead their respective evidence.

6. In the light of the above discussion, the instant petition stands dismissed.

7. 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.

8. In the light of dismissal of the petition, pending applications, if any, stand disposed of.

December 14th, 2023

Puneet

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No