

2023:PHHC:156054
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1941-2023
Date of Decision:06.12.2023

Madhu ...Appellant

vs.

State of Haryana and Anr. ...Respondents

(ii) **CRA-S-1993-2023**

Pawan Kumar and Others ...Appellants

vs.

State of Haryana and Anr. ...Respondents

(iii) **CRA-S-1999-2023**

Sandeep Kumar @ Mittu ...Appellant

vs.

State of Haryana and Anr. ...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Sanjiv Gupta, Advocate
for the appellant(s) in all the cases.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Mr. Puranjeet Singh, Advocate
for the complainant/respondent No.2.

N.S.Shekhawat J. (Oral)

1. This order shall dispose off three criminal appeals i.e.CRA-S-1941-2023 titled as ***“Madhu Vs. State of Haryana and Anr.,*** CRA-S-1993-2023 titled as ***“Pawan Kumar and Others Vs. State of Haryana and Anr.,*** CRA-S-1999-2023 titled as ***“Sandeep Kumar @Mittu Vs. State of Haryana and Anr.,*** since all the appeals arising out of the common FIR, i.e. FIR i.e 89

dated 07.03.2023 under Sections 147,149,323,341,506 and under Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), Amendment 2015 (herein after referred to as the “Act”) are being taken up together for disposal.

2. While issuing notice of motion on 27.07.2023 in CRA-S-1999-2023 titled as **“Sandeep Kumar @ Mittu Vs. State of Haryana and Anr.”** this Court had noticed the following contentions made by learned counsel for the appellant:-

“Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case by making allegations as grave as possible. The alleged occurrence had taken place at 08.30 a.m. on 06.03.2023 whereas the FIR was registered on the next day. He further contends that all the injuries suffered by the complainant party are simple in nature and the offence under Section 3 of the Act had been added only to make the offence non-bailable. Learned counsel further contends that in fact the complainant party was the aggressor and had concealed the real occurrence. In fact, at the instance of Pawan Kumar, co-accused had lodged FIR No. 88 dated 07.03.2023 under Sections 148, 149, 323, 379-B, 427, 452 and 506 IPC, Police Station Bawani Khera, District Bhiwani and Pawan, Madhu and Himanshu were seriously injured and as a counter blast to the said FIR, the complainant has got the present FIR registered by coining a false version. Learned counsel further contends that the appellant's side is being repeatedly attacked by the complainant party. On 10.03.2023, Ram Kishan and his accomplices had thrown chilly powder in the eyes of Sandeep Kumar @ Mittu, appellant and also caused him injuries with danda and iron rods with an intention to kill him. Consequently, FIR No. 98 dated 11.03.2023 under Sections 148, 149, 323, 326, 307 and 506 IPC Police Station Bawani Khera was registered against the complainant side. Due to the injuries

sustained in the said attack, Sandeep Kumar @ Mittu, appellant had lost his right eye and now is totally blind from right eye. Learned counsel further contends that even from the averments made in the FIR, no offence under Section 3 of the Act is made out against the appellant and his co-accused. Learned counsel further contends that the appellant is ready to surrender before the Investigating Agency and to join the investigation.

3. Today, during the course of arguments, learned counsel for the appellant(s) has reiterated the said submissions. He further submits that in the present case no offence under Section-3 of the “Act” is made out. He further contends that in the present case, the appellants had allegedly called the complainant “*dhedh*” and it was not a derogatory word in Haryanvi dialect. In fact, the general meaning of the word “*dhedh*” is a stupid person. Learned counsel for the appellant has also placed reliance on order dated 24.04.2023 passed by a Co-ordinate Bench of this Court in a case titled as **“Saroj Devi Vs. State of Haryana”**, where the bail was granted in similar circumstances and the following observations were made:

“Learned counsel for the appellant would contend that the expression “Dhed” was not, in fact, a derogatory word as had been alleged by the complainant but was an expression, which was frequently used in normal customary parlance in the place where the parties were residing.

Learned counsel further submitted that in Haryanvi dialect, it was used for a “stupid person” and the alleged derogatory word did not even relate to any particular caste and therefore, the bar contained under Sections 18 and 18- A of SC & ST Act would be inapplicable to the present case. Therefore, the appellant had not used the said word in a derogatory manner much less to insult and humiliate the complainant.

Learned amicus curiae, while drawing the attention of this Court

to Part V of List of Scheduled Castes, The Constitution (Scheduled Castes) Order, 1950 wherein various castes are reflected, submitted that the expression “Dhed” is not one of the 37 castes, which fall under the SC/ST Act with respect to the State of Haryana. Learned counsel further submitted that in Haryana, “Dhed” is not included in the list of Scheduled Caste although 'Deha', 'Dhaya' and 'Dhea' are included in the List of the Scheduled Castes but are admittedly different from “Dhed”. Learned counsel further submitted that in Part IX of List of Scheduled Castes, in some States like Gujarat, Madhya Pradesh and Chhattisgarh “Dhed” did fall within the SC/ST category but yet again they would have no application in the State of Haryana for the reasons as submitted by him earlier. Learned amicus curiae thus, submits that since there was no notified Scheduled Castes by the name “Dhed”, in the State of Haryana “Dhed” could not be termed as a derogatory remark rather after consultation with the locals, it emerged that the said term was being frequently used to denote “a stupid person”.

4. Learned counsel for the appellant(s) further submits that in compliance of the interim orders passed by this Court, the appellants had surrendered before the Investigating Agency and they have already been ordered to be released on bail by the Arresting Officer subject to the conditions envisaged under Section 438 (2) of Cr.P.C

5. On the other hand learned State counsel on instructions from DSP Ramesh Kumar submits that the present appellants had joined the investigation and had co-operated during the course of investigation. She further contends that the custodial interrogation of the present appellant(s) is not required by the police, at this stage.

6. On the other hand learned counsel appearing on behalf of

respondent No.2/complainant has vehemently opposed the submissions made by learned counsel for the appellants. He submits that the appellants are habitual offender and one criminal complaint under Sections 323/341/342/379B/377 read with 511,420,406,467,471 of IPC and Section 3(1)(r) and 31 (1)(s) SC/ST Act, POA Act has also been filed by another person namely Shyam son of Jagdish. However, he admits that the present appellants have not been summoned in the said complaint so far. Learned counsel for respondent No.2/complainant further submits that the appellants are constantly threatening the respondent No.2/complainant and other persons and do not deserves the concession of bail by this Court.

7. I have heard learned counsel for the parties and perused the record.

8. In the present case, the appellants had addressed the complainant as “dhedh”, however, from the above submissions, it would be debatable as to whether the offence under Section-3 of the “Act” is made out or not and the said issue can be finally settled and adjudicated by the Trial Court during the course of trial. Learned State counsel has already submitted that the appellants had surrendered before the Investigating Officer and were admitted to interim bail by him. Still further, the custodial interrogation of the present appellant(s) is not required by the Investigating Agency and no fruitful purpose would be served by sending the appellants behind the bars. Consequently, this Court is of the considered opinion that the present appeals are liable to be allowed by this Court. The interim order dated 28.07.2023 passed in CRA-S-1941-2023, the interim orders dated 27.07.2023 passed in CRA-S-1993-2023 and CRA-S-1999-2023 respectively are ordered to be made absolute. The appellants shall continue to join the investigation, as and when called by the Investigating

Officer. The appellants shall also abide by the conditions as specified under
Section 438 Cr. PC.

06.12.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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