

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Uday Singh and another

CRM-M-43461-2022
.....Petitioners

Vs.

State of Haryana

.....Respondent

Reserved On.: 15.02.2024
Pronounced On: 19.02.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. J.P. Dhull, Advocate for the petitioners.

Mr. Randhir Singh, Addl. AG, Haryana.

Mr. Jagdish Manchanda, Advocate
for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., petitioner prays to quash FIR No.5 dated 05.01.2021 registered at Police Station Thanesar City, District Kurukshetra under Sections 323, 504, 506 of the IPC, and Section 3 of The Scheduled Caste and Scheduled Tribes Act, 1989 (Amendment 2015) [in short 'SC/ST Act'] and all the subsequent proceedings arising therefrom.

2.1 FIR in question (Annexure P-1) was lodged on the complaint of Rajender Kumar son of Ram Kalan, Sarpanch of Village Ghararsi, P.S. Kurukshetra University, Kurukshetra, alleging that complainant had made a complaint to the Election Officer, Kurukshetra on 15.12.2020 against Uday Singh (petitioner No.1) and his family regarding their having vote in Village Ghararsi, as well as in ward No. 20 & 21 of Amargarh Gamri, Kaithal and appealed for removing their votes from Ghararsi, as they were having voting

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right from Kaithal since long time. The complaint was sent to SDM, who fixed 04.01.2021 to be the date of hearing.

2.2 On 04.01.2021, complainant along with Ishwar Singh son of Nanu Ram; Devi Lal, Chairman of Block Samiti, Thanesar, Suresh son of Suba Ram and 40-50 other people had gone to the SDM Office. When he came outside the office of SDM after the hearing and reached near the place, where vehicle of SDM was parked, suddenly the two accused Uday Singh and Dinesh (petitioners) appeared and started abusing the complainant. It was alleged that the accused uttered casteist words against the complainant and asking as how he had dared to get their votes removed. It was further alleged that Dinesh caught hold of the complainant by neck, whereas Uday Singh started giving him slaps and fist blows. When Ishwar, the uncle of complainant intervened, the two accused gave slaps and fist blows to him also and abused in the name of his caste. On the noise raised by them, other people reached the spot and saved them from the clutches of the accused. Accused threatened to teach them a lesson in future for getting their votes removed.

3. Necessary investigation was conducted. Medico legal report of the complainant was collected. Statements of witnesses were recorded. After completion of investigation, final report under Section 173 Cr.P.C. was filed to prosecute the two accused- petitioners under Sections 323, 504 & 506 of the IPC besides Section 3 of SC/ST Act. Charges have already been framed by the Court.

4. It is contended by learned counsel for the petitioners that petitioners have no concern with the alleged occurrence and have been falsely implicated. It is alleged further that complainant has a history of registering

false FIRs against other villagers so as to pressurize them and to maintain dominance in the village. Ld. counsel drawn attention towards Annexure P-2, the copy of an order dated 14.05.2020 passed by this Court in CRR-1354-2019 so as to contend that by way of that order, this Court had quashed the FIR No.436 dated 26.10.2017 under Section 506, 34 of the IPC and 3(1)(r) and 3(1)(s) of the SC/ST Act registered against accused on the complaint of Rajender Kumar. Learned counsel contends that even the father of the complainant had got registered another case FIR No.249 dated 23.06.2021 under Sections 323, 506 of the IPC and Section 3(1)(s) of the SC/ST Act, in which order Annexure P-3 was passed. Still further, it is contended that at the time of alleged utterances, no other person was present in the parking area and so, no offence is made out.

5. Strongly opposing the petition, learned State counsel ably supported by learned counsel for the complainant drawn attention towards the final report under Section 173 Cr.P.C. so as to contend that allegations made in the FIR were found to be correct during investigation, as the same were corroborated in the statements of the witnesses recorded under Section 161 Cr.P.C. Learned State counsel also submits that occurrence took place at a public place, in the parking area, where the vehicle of the SDM is parked and so, the provisions of Section 3 of the SC/ST Act are clearly attracted. Prayer is made for dismissal of the petition.

6. Submissions considered. Paper-book perused.

7. Contention of learned counsel for the petitioners to the effect that earlier FIR lodged on the complaint of Rajender Kumar was quashed by this Court vide order Annexure P-2 indicating that he is in the habit of filing the

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false cases, cannot be a ground to quash the present FIR. Perusal of Annexure P-2 would reveal that one of the reasons for quashing FIR No.436 dated 26.10.2017, the subject-matter of that petition, was that essential ingredients to make out a case under Section 3 of the SC/ST Act were found to be missing, inasmuch as it was found that insult was not done in the public place within the public view.

8. Even otherwise, simply because an earlier FIR lodged at the instance of complainant Rajender Kumar has been quashed, does not mean that the allegations made in the present complaint are also false.

9. Learned counsel for the petitioners has also contended that in its order dated 04.08.2021 passed in CRM-M-30866-2021 (Annexure P-3), in which anticipatory bail was granted to one Virender in case FIR No.249 dated 23.06.2021 registered at Police Station Kurukshetra University, Kurukshetra under Sections 323, 506 of the IPC & Section 3(1)(s) of the SC/ST Act on the complaint of Ramkala, direction was given that if any complaint is filed under the provisions of SC/ST Act, an enquiry should be conducted before registering the FIR, by an Officer not below the rank of DSP.

10. In the present case, the perusal of the reply filed by the respondent State would reveal that on the basis of complaint made by Rajender Kumar, thorough investigation was conducted, during which statements of witnesses were also recorded, corroborating the version of the complainant. The occurrence took place in the parking area of the office of the SDM, which obviously is a public place and as per the allegations, complainant had gone there along with 40-50 people to attend a meeting regarding removing the names of the petitioners from the voter list of the village.

11. Apart from this, learned counsel for the complainant has rightly pointed out that petitioners have only prayed for quashing of the FIR; and have not challenged the final report under Section 173 Cr.P.C., which has already been presented in the Court after conclusion of the investigation.

12. In ***Kaptan Singh Versus The State of Uttar Pradesh and others***, **LL 2021 SC 379**, it has been observed by Hon'ble Supreme Court that:

*“.....However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in the case of **Dineshbhai Chandubhai Patel (Supra)** in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the Investigating agency nor can exercise the powers like an Appellate Court. It is further observed and held that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the Investigating Authority at such stage to probe and then of the Court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.*

*9.2 In the case of **Dhruvaram Murlidhar Sonar (Supra)** after considering the decisions of this Court in **Bhajan Lal (Supra)**, it is held by this Court that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is further observed that inherent jurisdiction under Section 482 Cr.P.C. though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C. Similar view has been expressed by this Court in the case of **Arvind Khanna (Supra)**, **Managipet (Supra)** and in the case of **XYZ (Supra)**, referred to hereinabove.”*

13. It is, thus, clear that when the statements of witnesses have already been recorded during investigation, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry, the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Besides, High Court can not go into merits of the allegations.

14. In present case, petitioners have not given any challenge to the final investigation report under Section 173 CrPC filed after conclusion of investigation, implicating the petitioners with the alleged crime.

15. Having considered submissions of both the sides and the report under Section 173 Cr.P.C. as referred in the reply, this Court finds that it will be a matter of trial as to whether the allegations made in the FIR on basis of which final report under Section 173 Cr.P.C. has been filed, are proved during trial or not. The case does not fall under any of the parameters laid down by Hon’ble Supreme Court in ***“State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors.”*** **1992 AIR 604** so as to quash the FIR.

As such, petition is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

February 19, 2024
Neetika Tuteja

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No