



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
205

Date of decision: 06.03.2025

1. CRA-S-895-2024 (O&M)

Jagroop Singh

....Appellant

Versus

State of Punjab and another

....Respondents

2. CRR-457-2024 (O&M)

Harjit Singh @ Harjeet Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saurav Bhatia, Advocate
with Mr. J.S. Chahal, Advocate
Mr. Kuljinder S. Billing, Advocate
and Mr. Manjot Khokhar, Advocate
for the appellant in CRA-S-895-2024.

Mr. Baljinder S. Sra, Advocate
for the petitioners in CRR-457-2024.

Mr. Sandeep Kumar, DAG, Punjab in both the cases.

Mr. Karanpreet Singh, Advocate
and Mr. T.S. Chauhan, Advocate
for respondent No.2 in both the cases.

HARPREET SINGH BRAR J. (Oral)

Vide this common order, I intend to dispose of CRA-S-895-
2024 and CRR-457-2024, as common questions of law and facts are
involved for adjudication.



Prayer in the instant appeal i.e. CRA-S-895-2024 as well as in the revision petition i.e. CRR-457-2024, is for setting-aside the order dated 07.02.2024, passed by learned Additional Sessions Judge, S.A.S. Nagar (Mohali) vide which the application filed by respondent No.2 under Section 156(3) of Cr.P.C., was allowed and a direction was issued to the Deputy Superintendent of Police, dealing with the affairs of Police Station Sohana, for registration of a criminal case against the appellant and other co-accused.

Learned counsel for the appellant (in CRA-S-895-2024) as well as learned counsel for the petitioners (in CRR-457-2024) submit that in pursuance to the impugned order dated 07.02.2024, an FIR No.0071 dated 29.02.2024, under Sections 148, 149, 201, 323, 324, 327, 338, 341, 427, 452, 506, 120-B IPC, Sections 3 and 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sections 9, 39, 50, 51 of the Wild Life (Protection) Act, 1972 and Sections 4 and 5 of the Indian Forest Act, 1927 has been registered at Police Station Sohana, District S.A.S. Nagar, Mohali. They further submit that the impugned order dated 07.02.2024, was passed by the learned Additional Sessions Judge, S.A.S. Nagar, Mohali, by invoking the powers under Section 156(3) Cr.P.C., without obtaining the affidavit of respondent No.2. They further submit that the Hon'ble Supreme Court in *Priyanka Srivastava and another vs. State of U.P. and others 2015 AIR SC 1758*, has made the filing of affidavit mandatory in support of



the application filed under Section 156(3) Cr.P.C. The operative part of the said judgment reads as follows:-

“24. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order....

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xxx

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26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.”

Learned counsel for the petitioners as well as learned counsel for the appellant, have further contended that at the time when certified copies were obtained, the affidavit of respondent No.2 was not part of the judicial record.

On the other hand, learned counsel for respondent No.2 submits that he had, in fact, filed his affidavit in support of the application filed under Section 156(3) Cr.P.C., however, the same was misplaced.

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Learned counsel for the contesting parties are *ad idem* that the impugned order be set-aside and the matter be remanded back for afresh decision.

In terms of the judgment passed by Hon’ble Supreme Court in *Priyanka Srivastava’s case (supra)*, the present appeal as well as the revision petition are allowed and the impugned order dated 07.02.2024, passed by learned Additional Sessions Judge, S.A.S. Nagar, Mohali, and all other subsequent proceedings arising therefrom, is set-aside and the matter is remanded back to the Court concerned for deciding the issue afresh.

The FIR No.0071 dated 29.02.2024, registered under Sections 148, 149, 201, 323, 324, 327, 338, 341, 427, 452, 506, 120-B IPC, Sections 3 and 4 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sections 9, 39, 50, 51 of the Wild Life (Protection) Act, 1972 and Sections 4 and 5 of the Indian Forest Act, 1927 at Police Station Sohana, District S.A.S. Nagar, Mohali, is also ordered to be quashed.

A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

06.03.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No