



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

CRM-M No.8313 of 2015 (O&M)

Reserved on :09.09.2025

Pronounced on: 16.09.2025

Vipin Gupta

.....Petitioner

Versus

Sunderpal @ Surinder Pal

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by: Mr.Abhijeet Partap, Advocate for the petitioner.

Mr. Vikas Bali, Advocate for the respondent.

SURYA PARTAP SINGH, J. (Oral):

Challenge in this revision petition is the summoning order dated 15.07.2014 (Annexure P-3), passed by the Court of learned Judicial Magistrate Ist Class, Ludhiana, whereby the petitioner has summoned to face trial as an accused.

2. The background of the above mentioned case is that the respondent filed a compliant alleging the commission of an offence under Sections 3 and 4 of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the petitioner and his wife. However, the learned trial Court by virtue of order, impugned in this petition, took cognizance against the petitioner only and observed that no case against the wife of petitioner is made out.

3. Aggrieved of the above mentioned order the petitioner preferred a revision petition in the Court of learned Additional Sessions Judge, Ludhiana.



However, the revision petition preferred by the petitioner did not find favour and the same has been dismissed by virtue of order dated 04.02.2015.

4. Succinctly, the allegations made by the respondent-complainant against the petitioner-accused in his complaint are that petitioner and respondent were known to each other and the petitioner-accused who belongs to a higher caste was aware of the fact that respondent-complainant belongs to a scheduled caste. It has been further alleged by the respondent-complainant that they were carrying a joint business for the last more than one year, but later on there was some issue in the above mentioned business and, therefore, they suffered huge losses and ultimately decided to part ways. As per respondent-complainant when the accounts were settled it was found that a sum of Rs.5,54,000/- of the respondent-complainant was due towards petitioner-accused.

5. It has been further alleged by the respondent-complainant that on 20.08.2013, he was called by the petitioner-accused in his office to settle the accounts and when he (respondent-complainant) went to the office of petitioner-accused, the petitioner-accused thrashed him. According to respondent-complainant the petitioner-accused had beaten him up with the help of slaps and feast blows, and when he (respondent-complainant) raised hue and cry for help, Gurjeet Singh and Mewa Singh arrived on the spot but in their presence also the petitioner-accused used abusive language in the name of caste of the respondent-complainant. According to respondent-complainant when the petitioner-accused was using derogatory words in the name of caste of the respondent-complainant number of individuals present in the



surrounding area also gathered on the spot and in their presence, too, abusive language in the name of caste of the respondent-complainant, was used.

6. Since on the basis of above mentioned complaint cognizance against the petitioner-accused has been taken by the learned Judicial Magistrate Ist Class, Ludhaiana, and the endeavour of petitioner to challenge the above mentioned summoning order, by way of revision, in the Court of learned Additional Sessions Judge has failed, the petitioner-accused has resorted to instant petition by invoking the jurisdiction of this Court under Section 482 Cr.P.C.

7. This petition has been preferred by the petitioner-accused, hereinafter being referred as petitioner only on the ground that the complaint filed by the respondent-complainant, hereinafter being referred as respondent only, under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, is nothing but utter misuse of process of law and that, in fact, no incident as alleged in the complaint had taken place. According to petitioner, the families of petitioner and respondent were known to each other, and that wife of the complainant was running a business as proprietor in the name of M/s Veena Cloth House. According to petitioner, the wife of complainant borrowed a sum of Rs. 6,00,000/- from the petitioner under an assurance that it will be returned in 4-5 months, and issued two post dated cheques with regard for the return of the above mentioned borrowed amount.

8. It is the case of the petitioner that wife of complainant failed to pay the abovesaid amount and, therefore, the petitioner filed a compliant under Section 138 of Negotiable Instruments Act, 1881 which was at final stage.



According to complainant, the respondent pressurized the petitioner to withdraw the above mentioned complaint, but when complainant did not succumbed to the pressure mounted by the respondent, he threatened the petitioner of filing a complaint under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It has been emphatically alleged by the petitioner that as a counter blast to complaint under Section 138 of N.I. Act, being faced by the wife of respondent, the respondent has resorted to file a false complaint under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

9. Heard.

10. It has been contended on behalf of petitioner that both the Courts below, i.e. Court of learned Judicial Magistrate Ist Class as well as learned Additional Sessions Judge, Ludhiana have failed to appreciate the facts as well as law in a right perspective and both of them have ignored the fact that a false story has been cooked up by the respondent in order to frame the petitioner in a false case, with an intention to pressurise the petitioner to withdraw the complaint filed by the petitioner under Section 138 of N.I. Act against the wife of respondent. According to learned counsel for the petitioner in addition to above, both the Courts have also failed to appreciate that necessary ingredients meant for the constitution of offence under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are not made out in the instant case.

11. With regard to above, it has been pointedly argued by learned counsel for the petitioner that the contents of the complaint itself reveals that



the incident had taken place inside the office of petitioner, and that except the petitioner none-else was present there. According to learned counsel for the petitioner once the utterance of alleged derogatory words in the name of caste of respondent were not in public view, any offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not made out. As per learned counsel for the petitioner both the Courts below have committed an error of judgment and the petitioner has been wrongly summoned to face the trial. In view of above, the learned counsel for the petitioner has called for indulgence and interference of revisional jurisdiction of this Court, in the impugned orders, and sought for the setting aside of the same.

12. In support of his arguments it has also been argued by learned counsel for the petitioner that repeatedly by this Court, as well as Hon'ble Supreme Court of India, it has been held that the complaint under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not maintainable, if it is proved that the incident had not taken place in public view. In this regard case of **Gurcharan @ Charan Singh and others Vs. Gurdev Singh and another CRM-M-30358 of 2012**, has been referred, wherein, the complaint was quashed by this Court, while relying upon the principles of law laid down in the case of **Gorige Pentaiah Vs. State of A.P. and others 2008(4) R.C.R. (Criminal) 171**.

13. Similar view was taken by this Court in the case of **Dr. Onkar Chander Jagpal and another Vs. Union Territory, Chandigarh and another, 2012 (1) RCR (Criminal) 931** and **Jaibir and others Vs. State of Haryana and another, 2009(4) R.C.R. (Criminal) 627** and **Ajit Singh and**



others Vs. State of Haryana and another, rendered in CRM-M-46214-2005, decided on 30.08.2011.

14. In support of his above mentioned contentions learned counsel for the petitioner has also referred the observations made by the Madhya Pradesh High Court in the case of **Namita Agnihotri Vs. Dr. Rekha Bharethia and another 2004(1) R.C.R. (Criminal) 263**, wherein, learned Single Judge observed that if the incident is not in public view, offence under Sections 3 and 4 of SCST Act is not made out.

15. Per contra, learned counsel for the respondent has argued that the core issue, in the instant case, at this stage, is as to whether any offence was committed within public view or not. According to learned counsel for the respondent, the bare contents of the complaint itself shows that it was specifically mentioned by the respondent in his compliant that although the incident had taken place inside the office of the petitioner, yet later on public had gathered there and in the presence of numerous persons, derogatory words in the name of caste of respondent were spoken. According to learned counsel for the respondent all the essential ingredients meant for the constitution of offence under Sections 3 and 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are made out in this case and, therefore, there is no merit in the instant quashing petition.

16. The record has been perused carefully.

17. In the present case, at the very outset, it is relevant to mention here that, at this stage only, allegations contained in the complaint, and the contents of preliminary evidence adduced by the petitioner in support of above



mentioned complaint, can be looked into, as laid down by the Hon'ble Supreme Court of India in the case of **Swaran Singh Vs. State through Standing Counsel & Anr. 2009 (1) Apex Court Judgments (SC) 584**. It has been held in the above mentioned case that at the initial stage the Court can only see as to whether treating the allegations contained in the FIR the offence under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made or not. According to the Hon'ble Supreme Court of India, at this stage, the Court cannot look into whether the allegations contained in the FIR are true or false.

18. In the light of above mentioned legal proposition, if, the contents of the complaint in the instant case are analyzed, it was transpired that in the present case there are specific and categorical allegations:-

1. that the petitioner and the respondents were known to each other and that petitioner belongs to higher caste whereas respondent is a member of scheduled caste. In such circumstances, the observations made by this Court in the case of **Gurcharan @ Charan Singh and others (supra)** are not applicable, as the above mentioned factual position was just opposite in that case;
2. that in the present case there are very specific allegations against the petitioner that before using derogatory words in the name of caste of respondent, the petitioner had thrashed him by causing hurt. The above mentioned contents of the complaint brings the offence within the purview of Sections 3(2), 4 and 5(a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The law nowhere



provides that if injuries are caused on the body of a member of scheduled caste, it should be in public view;

3. that there are the very specific and categorical allegations in the complaint; that when the respondent was thrashed by the petitioner he cried for help and in response to his call two persons Gurjit Singh and Mewa Singh arrived on the spot, who were neither family member of the respondent nor his friends;
4. In addition to above, it has also been mentioned in the complaint that after the arrival of Gurjeet Singh and Mewa Singh when abusive language was used by the petitioner, from neighbourhood other persons, too, have arrived on the spot and in their presence, too, derogatory words were used by the petitioner.

19. The above mentioned act of the petitioner *prima facie* shows that the offence was committed in public view by using derogatory words in the caste of the respondent. If the use of derogatory words in the name of caste of a member of scheduled caste takes place at a private place but the words are used in the presence of passer by/public gathered there, such place despite being a private property is a place in public view. This view finds strength from the principles of law laid down by the Hon'ble Supreme Court of India in the case of **Karuppudayar Vs. State Rep. By The Deputy Superintendent of Police & Ors. 2025 (1) RCR (Criminal) 811**, which provides that a private place can be a place in public view.

20. Since at the stage of taking cognizance, and summoning of



accused, the credibility of the allegations cannot be examined, this plea of petitioner has of no use that adequate evidence such as non-examination of Gurjeet Singh at pre summoning stage is not a relevant factor at this stage.

21. Taking into consideration the holistic view and all the circumstances of the instant case, in my opinion, the cumulative effect of above mentioned observations leads to a conclusion that, at this stage, when only a *prima facie* case is supposed to be proved by the petitioner, and on the basis of allegations contained in the complaint as well as supporting preliminary evidence there are allegations of commission of offence punishable under Sections 3 and 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, it is hereby held that there is no illegality or perversity in the orders of learned Judicial Magistrate Ist Class vis-a-vis learned Additional Sessions Judge, Ludhiana, challenged in the present case.

22. As a sequel of above mentioned observations it is hereby held that there is no scope of interference and indulgence in the findings rendered by the Court of learned Judicial Magistrate Ist Class vis-a-vis learned Additional Sessions Judge, Ludhiana and that the present petition devoid of merits.

23. The present petition is hereby dismissed, accordingly.

Pending miscellaneous application(s), if any, also stands disposed of.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on:16.09.2025

Manoj Bhutani

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