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

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**CRM-M-34751-2017 (O&M)
Decided on: 28.01.2026**

DEVENDER SINGH**.....Petitioner****Versus****STATE OF HARYANA AND ANOTHER****.....Respondents****CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA**

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

Mr. Karan Veer Singh, Sr. DAG, Haryana.

Mr. Karamveer Singh Banyana, Advocate for respondent
No.2.

SUBHAS MEHLA, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C. seeking quashing of Criminal Complaint No.10 of 2013/2016 dated 09.09.2013/ 12.08.2016 under Section Section 3(1)(viii) of Scheduled Caste Tribe (Prevention of Atrocities) Act, 1989 titled as “Suresh Kumar Vs. Davender Singh” and summoning order dated 17.01.2017 passed by Illaqa Magistrate, Rohtak (Annexure P-3) as well as order dated 02.03.2017 (Annexure P-7) passed by learned Additional Sessions Judge, Rohtak in revision.

2 Brief facts of the present case are that the Killa No. 105/19-20-21-22-23 measuring 23 kanals 19 marlas was previously owned by Ganga Singh, father of the petitioner namely Devender Singh and his uncle, namely Bhim Singh, had been allotted to Harke Ram, the father of the complainant, from surplus pool under the Haryana Ceiling work of Land Holdings Act, 1972 being member of Scheduled Caste for



Rs.4656.63 vide order dated 08.01.1977 which was to be paid in 10 equal instalments of Rs.465.66 each. Sh. Harke Ram died on 23.1.1977 and first instalment of Rs.465.66 was deposited by his L.Rs on 20.2.1978 and the possession of the allotted land was delivered to Smt. Shanti widow of Harke Ram on 23.7.1980. The remaining instalments in lump sum with interest were deposited on 21.10.2010 by Smt. Shanti Devi. It is alleged that Devender Singh (the present petitioner) and his brother Bhanwar Singh after the death of their father namely, Ganga Singh wrongfully cultivated the said land. The complainant's mother made complaint against wrongful occupation and cultivation under Section 3(1) (iv) of SC/ST Act. The accused persons including the present petitioner who are the successors-in-interest of Ganga Singh and Bhim Singh had lost their rights in the surplus area case as far back as on January 24, 1971, but had never vacated the property and had illegally cultivated said land. Respondent no. 2 filed a complaint dated 09.09.2013/12.08.2016, before Illaqa magistrate, Rohtak under section 3(1)(iv) and 3(1)(viii) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, ensuing which, vide order dated 17.01.2017 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Rohtak petitioner was summoned under section 3(1)(iv) of the Act. Then petitioner approached the learned Sessions Court assailing said summoning order dated 17.01.2017 wherein learned Additional Sessions Judge, Rohtak vide order dated 02.03.2017 (Annexure P-7) dismissed the revision petition filed by the present petitioner.



3. Learned counsel for the petitioner submitted that the disputed land was allotted to Harke Ram father of respondent no. 2 on 08.01.1997 for a total consideration of Rs. 4656.63 to be paid in ten equal instalments. First instalment of Rs. 465.66 was deposited on 20.02.1978 but thereafter the remaining instalments remain unpaid for a period of about more than thirty years. It was 21.10.2010 on which lump sum of the remaining instalments with interest was deposited by Complainant's mother. The complaint made by the complainant is baseless as no offence has been committed by the petitioner. The allotment has not finalized due to non payment and matter remain pending in litigation before civil Court. He submitted that the state of Haryana has approached this Court against the allotment of land to the complainant's father through CWP No. 27518 of 2015, in which the operation of order dated 13.01.2015 has been stayed vide order dated 31.08.2015. Learned counsel for the petitioner further submitted that a separate complaint dated 24.11.2017 (Annexure P-6) on the basis of very similar facts and allegations was also filed against the three brothers of the petitioner under section 3(1)(iv) of the Act, wherein they have been acquitted after a full fledged trial by the learned trial Court vide judgment dated 19.04.2018 (Annexure P-10). He prayed for the quashing of the impugned complaint and summoning order on the ground that accused in the similar complaint (Annexure P-6) based on similar set of allegations in respect of same property have been acquitted by the trial court after appreciation of the evidences adduced before it and such judgment of acquittal has attained finality as complainant has not challenged said decision of acquittal and



continuation with the present complaint is misuse of process of law and waste of precious time of Court and prayed for accepting the present petition.

4. On the other hand, learned counsel for respondent No.2 submits that respondent No.2 alongwith other legal representatives of deceased Harke Ram are the owners of the allotted land as the said allotment has been approved by the competent authorities and till date has not been set aside by any Court or authority and the land in question has been allotted to them as per rules and the Financial Commissioner vide its order dated 13.01.2015 dismissed the ROR filed by SDO (Civil) Rohtak against the allotment of land and mutation order in favour of the respondent No.2. It is further contended that petitioner with his family members have lost their cases i.e. RSA No.3993 of 2011 and RSA No.2963 of 2011 about the surplus land and now they are in illegal possession of the allotted land to the respondent No.2. It is further contended that CWP No.27518 of 2015, titled as 'State of Haryana Vs. Shanti Devi and others' filed against the allotment of the land to the father of respondent No.2 has been dismissed by the Division Bench of this Court vide order dated 03.03.2023 and the allotment of the said land to respondent no.2, has been upheld.

5. Learned counsel for the State submitted that the petition filed by the State bearing CWP No.27518-2015 titled as "State of Haryana Vs. Shanti Devi and Others" seeking quashing of allotment of land as made to the predecessor in interest of the respondents, has been dismissed by the Division Bench of this Court vide order dated



03.03.2023. However, it is not disputed by learned counsel appearing on behalf of respondent No.2 and the State that the case of the present petitioner is similar to that pending before the trial Court where the complaint against the three brothers of the petitioner has been filed on the similar set of allegations and accused were acquitted vide judgment dated 19.04.2018 passed by learned Additional Sessions Judge, Rohtak.

6. Heard, record perused.

7. The petitioner was summoned to be tried under section 3(1)(iv) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which is reproduced herein below:

“ 3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe -

xxx

iv. wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred; ”

8. The case of the Respondent No. 2/ complainant is that alleged Killa No. 105/19-20-21-22-23 measuring 23 kanals 19 marlas was previously owned by Ganga Ram, father of the petitioner namely Devender Singh, and his uncle, namely Bhim Singh, which was declared surplus and was allotted to father of Complainant namey Harke Ram. But despite such allotment petitioner did not vacate the possession of this land and cultivated said land wrongfully.



9. The complainant had also instituted an identical complaint(Annexure P-6) with respect to same land i.e. Killa No. 105/19-20-21-22-23 measuring 23 kanals 19 marlas, against petitioner's brothers namely Jaipal, Narender, and Bhanwar Singh. In the said complaint (Annexure P-6), specific allegations have been levelled against Jaipal, Narender and Bhanwar Singh, of wrongfully occupying and cultivating Killa No. 105/19-22, Killa No. 105/20-21/2, and Killa no. 105/23, respectively, while in the present complaint(Annexure P-1), no such specific allegation has been levelled against the petitioner. Vide order dated 19.09.2017 of this court, the trial of the petitioner was stayed. However, the co-accused in the other complaint (Annexure p-6) were tried and during the pendency of the present petition, were acquitted by the Special Court Rohtak vide its judgment dated 19.04.2018 (Annexure P-10).

10. The Special Court after going through all the documentary and oral evidence adduced before it, concluded that the version of the complainant stood patently falsified, as the special court has recorded a definitive finding of the land being lying vacant for several years. Resultantly the co-accused were acquitted and their acquittal has attained finality as it has not been challenged by the respondent no.2/complainant.

11. During arguments, a specific query was posed to the Learned Counsel for Respondent no.2/ Complainant as whether the case against the petitioner is identical to the co-accused who have been acquitted by the Special Court, to which his answer was in affirmative. Furthermore, no



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plea of additional evidence to be adduced has been made by the Learned counsel of the complainant.

11. Considering the fact that the present case is based on identical and common evidence upon which the special court has already recorded a definitive finding, terming the version of the complainant patently false, it would be unjust and discriminatory to allow the trial to proceed against the petitioner, on the same set of facts and evidences.

12. The Hon'ble Supreme Court in **Javed Shaukat Ali Qureshi vs. State of Gujarat 2023INSC829**, has held as under:

“... 15. When there is similar or identical evidence of eyewitnesses against two accused by ascribing them the same or similar role, the Court cannot convict one accused and acquit the other. In such a case, the cases of both the accused will be governed by the principle of parity. This principle means that the Criminal Court should decide like cases alike, and in such cases, the Court cannot make a distinction between the two accused, which will amount to discrimination. ...”

13. Keeping in view of the above discussion, to meet the ends of justice, the Complaint and summoning order and the consequential proceedings are hereby quashed.

(SUBHAS MEHLA)
JUDGE

28.01.2026*Sonia Puri*

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO