

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 985 OF 2009
(Arising out of S.L.P. (Crl.) No. 3837 of 2006)



State of Punjab

...Appellant

Versus

Hardial Singh and Ors.

...Respondents

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the judgment of a learned Single Judge of the Punjab and Haryana High Court passed in an application under Section 482 of the Code of Criminal Procedure, 1973 (in short the 'Code'). The respondents were accused of having committed the offences punishable under Sections 364, 324, 323, 149 and 148 of the Indian Penal Code, 1860 (in short the 'IPC') and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The stand taken was that as per Rule 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (in short the 'Rules') framed under the Act, investigation had to be undertaken by an officer not below the rank of Deputy Superintendent of Police specially appointed by the State Government/Director General of Police/Superintendent of Police after taking into account of his experience, sense of ability and justice to perceive the implication of the case and investigate it along with right lines within the shortest possible time.

The stand of the State was that SP (D), Ferozepur had authorized Shri Manwinder Singh to investigate the case. It was admitted that there is a SSP in Ferozepur district who shall come within the definition of SP under Rule 7 of the Rules. The High Court held that SP (D) cannot be called District SP or the incharge of the District who could mark investigation to DSP Manwinder Singh. It was, therefore, held that the charges against the accused-respondents in the present case were to be dropped in respect of offences punishable under Sections 364, 324, 323, 149 and 148 IPC, and Section 3(2)(v) of the Act. After having said so, the High Court said that the observation that so far as the other offences are concerned as per report of the Deputy Superintendent of Police himself there had been party faction and efforts have been made to implicate many persons possibly the present petitioners. Strangely, the High Court found that the accused persons have been charged by the Additional Sessions Judge, Ferozepur for offence punishable under Section 364 IPC for abducting Surjeet so that he may be murdered.

But, having observed so the High Court said that it cannot be said that there was no prima facie case against the petitioners (meaning thereby the

accused persons) to frame charges and disposed of the case in the above terms.

3. Learned counsel for the appellant-State submitted that the order is absolutely confusing. At one stage the High Court had directed the charges against the accused persons for all the offences both under the IPC and the Act to be dropped but at subsequent stage it had noted that it cannot be said that there was no prima facie case against the accused persons to frame the charges.

4. Learned counsel for the respondents supported the judgment.

5. As is rightly contended by learned counsel for the appellant-State the order is very confusing. Be that as it may the only question is whether investigation done by the police officer specifically authorized to do so in terms of the Rule 7 is illegal qua offences not relatable to any provision under the Act. Recently, the controversy of the present nature was decided by this Court in State of M.P. v. Chunnilal @ Chunni Singh (Criminal Appeal No. 943 of 2003) decided on 15.4.2009.

6. Having the view expressed in Chunnilal's case (supra) we hold that only investigation qua the offence under the Act is vulnerable and not those

relatable to IPC. It is open to the State to authorize any person in the manner prescribed to investigate into the offences under the Act.

7. The appeal is allowed to the aforesaid extent.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
May 08, 2009