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**(1997) 05 P&H CK 0140**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Criminal Revision No. 833 of 1996**

Puran Chand

APPELLANT

Vs

Surinder Singh

RESPONDENT

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**Date of Decision :** 19-05-1997

**Acts Referred:**

**Citation :** (1997) 3 RCR(Criminal) 640

**Hon'ble Judges :** R.L.Anand, J

**Advocate :** R.B.S. Chahal, A.K. Sharma, Advocates for appearing Parties

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## Judgement

R.L. Anand, J.

1. Puran Chand has filed the present revision petition and it has been directed against the order dated 7.3.1996 passed by the Court of Special Judge, Kaithal, who dismissed the complaint under section 3 of Scheduled Caste, Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Puran Chand petitioner filed a complaint under Section 3 of the said Act alleging that he is a Harijan by caste and belongs to Scheduled Caste community. His son Baldev is a student of law and has contested Zila Prishad election against Surender Singh accused who belongs to Gujjar community. For the reason that the Baldev contested the election against Surender Singh, all the four accused became inimical towards the complainant. All the four accused Surender Singh, Desh Raj, Teju and Nishan along with other persons started abusing and beating the petitioner/complainant. They even burnt the houses of Bachna who is the real brother of the complainant. By the illegal activities of the accused, the complainant along with Mani Ram, Ram Kumar, Bachna, Baljit, Ram Chander and Risala, who are the members of Scheduled Caste community were compelled to leave the village and their houses and now they are on the roadside. The allegations of the complaint are further that on 12.11.1996 when he was going on the road in front of the Bus Stand, Kaithal along with Mani Ram and Ram Kumar all the respondents (accused) came there. At that time, they were travelling in a car. The respondents stopped the car. They came out and started

abusing the complainant like this that "Tum dedo, Tumhare Ghar Ujar Kar Tumhe Gaon Se Nikal Diya Hai, Phir Bhi Tum Hamare Samne Sair Ki Sarkon Par Phirte Ho, Yahan Bhi Hum Tumhen Sabak Sikhayenge".

3. On the above allegations, the complaint was filed. It appears that after entertaining the complaint, the learned Special Judge called the report of Police under Section 202 Cr.P.C. and that report has also gone against the complainant. In the preliminary evidence, the complainant appeared as CW 1 and he also examined Mani Ram, Ram Kumar, Ram Chander, Risala and Baljit Singh. The learned Judge after appreciating the evidence came to the conclusion that there is no ground to proceed with the complaint and he dismissed the complaint and the reasons adopted by the learned Special Judge are contained in paras No. 6, 7 and 8 of the impugned order which are reproduced as under :

"6. Allegedly the sons of complainant had contested the election against accused No. 1 but it is alleged that all the four accused became inimical towards the complainant. Relationship of the remaining three accused which the first is not explained or as to what motive they had to commit any such offence against the complainant. In the complaint, allegation of complainant is that Bachna, Baljit, Ram Chander and Risala have been compelled to leave their houses in the village and they are on the roads on the different places is a vague allegation. It is not as to when they were compelled to leave their houses and as to where they have settled. Complainant is still giving his address of village Keorak in which accused Des Raj, Teju and Nishan Singh are residing. PW 4 Ram Chander stated as if thereafter he had started living in village Kalyat. But the list of witnesses shows his address of village Keorak. PW 5 Risala stated as if he is residing in village Harigarh Kingan Tehsil Guhla, but list of witnesses appended to the complaint, shows that he is resident of village Keorak. It shows that a liar has no legs to stand upon. Thus, the allegations that complainant, Mani Ram, Ram Kumar, Bachana, Baljit, Ram Chander and Risala have been compelled to leave their village and are residing at different places, is prima facie false.

7. Further allegation is that it was on 12.11.1995 that in front of bus stand Kaithal, complainant was abused when he was in the company of Mani Ram and Ram Kumar. He was threatened to be taught a lesson but again there is nothing if any of the accused gave any injury to complainant or to Mani Ram and Ram Kumar. Even there is no allegation if any of the accused came out of the car what to speak of causing any injury. There is prima facie nothing if complainant or any one of them approached the police station. PW 1 complainant stated that accused involved his son and 2 nephews in a murder case. Firstly, he tried to conceal this grouse in the complaint and secondly, in my view that is the grouse to involve the accused in the complaint. Complainant further stated that house of his brother Bachna was burnt by the accused, but there is no independent evidence to sustain this allegation. In the complaint, complainant stated that he even met the D.C. regarding the alleged occurrence of 12.11.1995 but it remained only an allegation. According to complainant, only complainant had

gone to police and other authorities to lodge complaint but PW 2 Mani Ram and PW 3 Ram Kumar attempted to say that they had accompanied the complainant to the police and other authorities. Bus stand Kaithal is very thickly populated and very busy place but not even a single independent witness has been cited if any alleged occurrence took place.

8. Besides, report of the police shows that a murder case FIR No. 251 dated 29.12.1994 has been registered in which Bhim son of complainant, Ishwar son of Bachna brother of complainant, Ramesh son of Banarsi Harijans resident of Keorak are named as accused and challan has already been put in. There was an attempt of compromise in that case but the complainant suspected that Surinder Singh alleged accused Desh Raj, Teju and Nishan residents of the village are not allowing the compromise in that case to arrive at. Police also conducted enquiries from the Sarpanch of the village and other respectables and no such offence as alleged by the complainant was found to have been committed by any of the accused, nor any truth was found in the alleged occurrence of 12.11.1995. Report of police also shows that named accused are respectables of village and because of elections and because son of complainant and his nephew are involved in a murder case, accused have been falsely involved in this complaint which has been found false."

4. Aggrieved by the order, the present revision which I am disposing of with the assistance rendered by Shri A.K. Sharma, Advocate, on behalf of the petitioner and Shri R.B.S. Chahal, Advocate, who put in appearance on behalf of the respondents and have gone through the record of the trial Court.

5. Sections 203 and 204 Cr.P.C. would be relevant Sections for the purposes of determining the controversy in hand. Section 203 Cr.P.C. lays down that if after considering the statements on oath, if any, of the complainants and of the witnesses and the result of the enquiry or investigation, if any, under Section 202 Cr.P.C. the Magistrate is of the opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint and in every such case he shall briefly record his reasons for so doing.

6. Section 204 Cr.P.C. lays down that if in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding and the case appears to be summons case he shall issue his summons for the attendance of the accused and in case of a warrant case he shall issue warrants. The material wording in this case would be sufficient ground to proceed which in the opinion of this Court would be a prima facie case. Even the learned Special Judge has taken into account the merits and demerits of the case at that stage of the proceedings, it will be nothing but an abuse of the process of law and it has to be held that the learned Special Judge acted with illegality and material irregularity. At this juncture it was none of the functions of the learned Special Judge to enter into the merits of the case which he has done as is indicative from the operation of the order which I have reproduced above. If the statement of the complainant Puran Chand who appeared as PW 1 is read in extenso in corroboration to his

allegations of the complaint, this Court is of the considered opinion that there was sufficient ground for the learned Special Judge to proceed against the respondents. Even the statement of Puran Chand in the opinion of this Court has individual corroboration which was necessary for the Special Judge at that stage to formulate an opinion with regard to the prima facie case.

7. An effort has been made by the learned counsel for the respondents to convince this Court that the reasons advanced by the learned Special Judge while dismissing the complaint are wellfounded. The learned counsel further contended that the allegations of the complaint were made unsubstantiated. Those allegations were vague. So much so, even the report of police under Section 202 Cr.P.C. went against the complainant and there was no wrong or illegality in the impugned order.

8. This Court does not agree with the submissions raised by the learned counsel for respondents for the simple reason that the impugned suffers from material irregularity as the learned Special Judge has acted as if he was pronouncing the judgment on merit. It was beyond his scope at that stage of proceedings. In order to prove prima facie case the petitioner was not obliged to prove the allegations to the hilt. If there is sufficient corroboration of his allegations, it was the bounden duty of the learned Special Judge to proceed according to law under Section 204 Cr.P.C. and by not doing so he has put himself to criticism in the present revision.

9. Resultantly, this Court is of the opinion that this revision is liable to succeed. The same is hereby accepted. The impugned order dated 7.3.1996 is hereby set aside. The complaint is restored to its original number and directions are given to the learned Special Judge to proceed with the complaint according to law. The parties are directed to appear before the learned Special Judge on 15.7.1997.