
(2018) 05 DEL CK 0040
In the Delhi High Court
Case No : W.P.(CRL) 2634 of 2016

RAJBIR SINGH

APPELLANT

Vs

COMMISSIONER OF POLICE & ANR

RESPONDENT

Date of Decision : 04-05-2018

Acts Referred:

Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 — Section 3(1)(x), 3(x)
Cantonment Act, 2006 — Section 247

Citation : (2018) 05 DEL CK 0040

Hon'ble Judges : MUKTA GUPTA

Bench : Single Bench

Advocate : S.S.Dahiya, Ranbir Singh Kundu, Suman Saharan, H.K.Shekhar

Final Decision : Disposed Of

Judgement

MUKTA GUPTA, J.

1.By this petition, the petitioner seeks quashing of FIR No.279/2016 under Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention

of Atrocities Act, 1989) in short the Act registered on the complaint of respondent No.2.Â Â

2.Learned counsel for the petitioner contends that the abovenoted FIR was registered as a counterblast to the action taken by the petitioner of issuing

notice to the Cantonment Board on 26th October, 2015 asking them to take action against the unauthorized construction done by respondent No.2

whereafter the petitioner also lodged a writ petition being W.P.(C) No.11878/2015 before this Court which was finally disposed of on 18th September,

2017.Â Learned counsel for the petitioner further contends that on the bare reading of the FIR, it is not evident that offence punishable under Section

3 (1) (x) of the Act was committed as the words used have not been specified.Â Further the necessary ingredients of Section 3(1)(x) of the Act are

also not specified as the words used were allegedly not used in â??public viewâ?.Â The names of the alleged witnesses have also not been

mentioned in the complaint on the basis of which FIR has been registered.Â

Reliance is placed on the decisions in AIR 2018 SC 1498 Subhash Kashinath Mahajan Vs. State of Maharashtra, 2014 (1) JCC 657 State Vs. Om

Prakash Rana & Ors., 2015 (1) JCC 309 Vijender Singh Vs. State and 1987 Crl.L.J. 272 Baste Subrayalu Vs. Robert mariadassou & Ors.Â The

FIR in question is clearly mala fide and a counterblast to the action taken by the petitioner and be thus quashed.Â Â

3.Learned counsel for the respondent No.2 on the contrary contends that the respondent No.2 had not carried out any unauthorized construction,

rather the petitioner was carrying out unauthorized construction and thus demolition took place in his house on 28th August, 2015 and to seek

vengeance he was abusing the respondent No.2/complainant.Â Â

4.Before proceeding to deal with the rival contentions, it would be appropriate to note the contents of FIR No.279/2016 as under:-

â??To, The SHO, Delhi Cantt.-10 Subject : threat of killing and ousting from the Village, Taht Sh.Rajbir Singh S/o Sh.Rishal Singh R/o V-15, Near

Gurudwara, old Nangal, Delhi Cantt. was carrying out illegal construction by raising the pillars on the Government land, the inhabitants of Mohalla

reported the matter to Delhi Cantt. Board and the Board found the report to be correct and demolished the illegal construction on 28.8.2015.Â My

house is situated exactly opposite to Rajbir Singhâ??s House.Â Sh.Rajbir Singh is JAT by caste and a stout person.Â I am Harijan (CHAMAR) by

caste.Â I do not remain in good health.Â From the day since Sh.Rajbir Singhâ??s House was demolished, he used caste words and dirty language

everyday.Â He threatened me to oust from the Village and my son marriage is going to be solemnized on 13.12.2005, Sh.Rajbir Singh said you show

me HOW YOU get married your son, I will bang you.Â Due to this threat me and my family are scared.Â He wanted to cause loss to my family.Â

I request you to kindly take immediate step so that there should not be any hindrance in the marriage of my son.Â I have fear of loss of life and

property in the hands of Sh.Rajbir.â??Â

5. From the FIR, it is evident that no specific instance when caste words were used has been given and it is stated that everyday caste words were used. The exact words have also not been stated. It is also not stated as to in whose presence those caste words were used so that the ingredient of "public view" as mandated under Section 3(1)(x) of the Act is made out. Further though it is the case of the respondent No.2 that caste words were used everyday after demolition i.e. after 20th August, 2015 the complaint was filed only on 17th November, 2015. It is not disputed that on 26th October, 2015, the petitioner sent a complaint against the unauthorized construction carried out by respondent No.2 to the Delhi Cantonment Board. Further earlier also a complaint was filed against the respondent No.2 for unauthorised construction and notice against the respondent No.2 was framed under Section 247 of the Cantonment Act, 2006 wherein he pleaded guilty and was sentenced to fine to the tune of ₹ 10,000/- and cost towards demolition towards the tune of ₹ 15,000/- for offence punishable under Section 247, Cantonment Act vide order dated 20th April, 2012. Further the petitioner also filed W.P.(C) No.11878/2015 before this Court inter alia praying demolition of the unauthorized construction carried out by the respondent No.2 in the staircase portion at ground floor and first floor and the columns erected.

6. Though the case of the respondent No.2 is that even the petitioner was carrying out illegal construction and action was taken thereon however no material has been placed on record with the counter affidavit to show that on the complaint of respondent No.2 purported unauthorized construction carried out by the petitioner was demolished.

7. In similar facts, this Court in State Vs. Om Prakash Rana (supra) dismissed the petition of the State holding that the basic ingredients of 3 (1)(x) of the Act were missing as under:-

10. In the present case, the original complaint lodged by the complainant does not mention in whose presence the offending words were used by the respondents/accused persons. There is also nothing on record to show that the respondents/accused persons were having the knowledge that the complainant was a member of SC/ST community. There is nothing on record to show that the offending words were used in full public view. The names of alleged witnesses are not mentioned in the complaint dated

18.7.2012.Â The witnesses i.e. Meenakshi and Durga Dutt have alleged themselves to be eye witnesses.Â But their names have not been stated by the complainant in her complaint, the supplementary statement dated 27.8.2012 of the complainant giving the names of the alleged witnesses canâ??t fill up the lacuna.Â There is also delay of 3 days in lodging the FIR.Â

The delay is also not explained.Â The basic ingredients of Section 3(x) of the SC/ST Act are missing in the present case.Â There is no illegality in the impugned order which calls for interference of this Court.Â The revision petition is dismissed.â??Â

8.For the discussion aforesaid and as from the allegations as mentioned in the FIR No.279/2016 the ingredients of offence punishable under Section 3(1)(x) of the Act are not satisfied. FIR No.279/2016 under Section 3(1)(x) of the Act registered at PS Delhi Cantt. is quashed.Â Petition and application are disposed of. Â