

(1973) 07 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 1159 of 1972

Sita Ram

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 24-07-1973

Acts Referred:

Penal Code, 1860 (IPC) — Section 353

Citation : (1973) 07 P&H CK 0014

Hon'ble Judges : M.R. Sharma, J

Bench : Single Bench

Advocate : A.S. Anand with Mr. M.L. Sarpal, for the Appellant; V.M. Jain for Advocate General, for the Respondent

Final Decision : Allowed

Judgement

M.R. Sharma, J.—This revision petition is directed against the order dated June 16, 1972, passed by the learned Judicial Magistrate First Class, Hissar, by which he framed charges under sections 353 and 506, Indian Penal Code, against the petitioners.

2. The facts of the case briefly stated are that Shri Devi Lal, Secretary, Market Committee, Hissar visited the factory of the petitioners on December 15, 1971, and demanded to see their account books. He was accompanied by one Shri Ishwar Parkash at that time. The petitioners told Devi Lal that they would not show him the account books and it was open to him to do whatever he liked. Upon this Devi Lal picked up one M. register lying at the table. The petitioners are then said to have given a beating to Devi Lal. They are also alleged to have said that if Devi Lal and Ishwar Parkash dared to approach their factory, their dead bodies would go out of the factory.

3. The learned Sessions Judge declined to make a reference on the ground that the Secretary's entry in the factory premises of the petitioners for the inspection of the record was allowed by law and if after entering legally the Secretary

picked up a register it was hardly within the competence of the petitioners to show such a treatment to him.

4. I have heard the learned counsel for the parties and have given my anxious consideration to the facts and circumstances of this case. It is not disputed before me that the Secretary of the Market Committee is entitled to claim the documents for inspection. This is so provided in rule 35 of the Punjab Agricultural Produce Markets (General) Rules, 1962. He is also entitled to direct the petitioners to hand over any of the forms, books etc. against receipt. There is, however, no provision in the Rules regarding the compulsory seizure or search of the premises of a dealer. Rule 39 provides that any person committing a breach of any of the provisions of the Rules shall be punishable with fine which shall not be less than Rs. 50/- and not more than Rs. 500/-. Second proviso to this rule lays down that before a person is prosecuted under these Rules, he shall have to be given an opportunity of showing Cause. Obviously, this opportunity has not been afforded to the petitioners. A perusal of the said rule shows that it has been brought on the statute book for a particular purpose. As already noticed, even a Secretary is entitled to inspect such registers and account-books. In order to safeguard frivolous complaints or motivated complaints made by the Secretaries, the rule-making authority has laid down that the Committee itself should apply its mind and hear the view point of the person who is to be prosecuted before filing a complaint in the Court of a Magistrate. In short, after the petitioners refused to show the accounts-books to the Secretary and also refused to hand over these books to him, it was none of his business to stay there or to take the register of his own into possession. In *Parshotam Dass Lajja Ram and Others Vs. The State*, , under somewhat similar circumstances it was held that an Excise and Taxation Officer having no jurisdiction to conduct a search and seizure could not stay on the premises of a dealer who refused to show him the accounts and directed him to leave the premises. Following the view taken in that case, I am of the view that no prima facie case is made out against the petitioners u/s 353, Indian Penal Code.

5. Coming now to the allegation regarding section 506, Indian Penal Code it may be observed that the petitioners are alleged to have declared that if the Secretary entered their premises, they would do away with him. So that threat administered was hedged by certain conditions. The administration of such a threat does, not bring the case within the mischief of section 506, Indian Penal Code.

6. For the reasons mentioned above, I allow this petition, and quash the charges framed against the petitioners. It shall, however, be open to the Market Committee to proceed against them under rule 39 of the said Rules.