**Supreme Court**

**Ravinder Singh Vs. Sukhbir Singh & Ors.**

**[Criminal Appeal No. 67 of 2013]**

**Decided by J. Dr. B.S. CHAUHAN & J. V. GOPALA GOWDA**

**Decided on January 11, 2013**

**Topic: Section 3(1)(viii) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 379, 427 and 34 IPC**

**Facts:**

The appellant claims to be the owner of agricultural land measuring 1 bigha and 4 biswas, situated in the revenue estate of village Nangli Poona, Delhi. Respondent no.1 allegedly made an attempt to take forcible possession of the said land, and also filed FIR No. 254 of 2005 on 6.4.2005 under Sections 427, 447 and 506, read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC'). Though the appellant was arrested in pursuance of the said FIR, however, subsequently he was enlarged on bail. Aggrieved, the appellant filed a complaint against respondent no.1, as well as against the police officials involved and in view thereof, FIR No.569 of 2005 under Sections 447, 323, 429 and 34 IPC was registered. The appellant engaged one Pradeep Rana, Advocate, respondent no.2 and filed Writ Petition (Crl.) No. 1667 of 2005, inter- alia, seeking a direction for quashing of FIR No. 254 of 2005. The said writ petition was dismissed in limine vide order dated 29.9.2005. In the meantime, in the criminal proceedings launched by the appellant, a charge sheet was filed against respondent no.1 in December, 2005. After investigating the allegations made in FIR No. 254 of 2005 against the appellant, the police submitted a final report dated 20.2.2006, under Sections 173 and 169 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.'), in the court of the Metropolitan Magistrate, Delhi. Respondent no.1 approached the revenue authorities i.e. Tahsildar, Narela, seeking the inclusion of his name in the revenue record as a person in possession/occupation of the said land. However, his claim was rejected by the Tahsildar vide order dated 22.6.2006. It is at this time, Writ Petition (Crl.) No. 2657 of 2006 was filed in the name of the appellant by Pradeep Rana, respondent no.2 as counsel on 18.11.2006, on the basis of the averments made in the first writ petition i.e. Writ Petition (Crl.) No. 1667 of 2005, and seeking the same relief sought therein. The said writ petition was dismissed in default vide order dated 17.8.2007. Meanwhile, respondent no.1 tried to get his name recorded in the revenue record as being in cultivatory possession, but the same was rejected again by the Tahsildar, Narela, vide order dated 13.8.2007. Respondent no.1 filed another complaint under Section 107/150 Cr.P.C. on 18.9.2007, and filed a fresh FIR No.16 of 2007 on 21.9.2007 under Sections 379, 427 and 34 IPC, and subsequently added the provisions of Section 3(1)(v) of the Act 1989. Respondent no.1 also filed an appeal against the order of the Tahsildar, rejecting his application made for the purpose of recording his name in the revenue records. Respondent no.1 also filed Contempt Case (Crl.) No.10 of 2007 before the High Court of Delhi against the appellant for filing two criminal writ petitions seeking the same relief, and for not disclosing the fact that he had filed the first writ petition, while filing the second writ petition, owing to which, the said writ petition stood dismissed in default vide order dated 17.8.2007.

**Contentions:**

On receiving notice from the High Court, the appellant filed a reply expressing his ignorance regarding the filing of the second criminal writ petition, and further stated that he was an illiterate person, owing to which, he had given all requisite papers to Pradeep Rana, Advocate, respondent no. 2, and that respondent no.2 might have filed the said petition, in collusion with respondent no.1. Notice was then issued to Pradeep Rana, respondent no.2 by the High Court, who appeared and tendered an apology for filing the second petition, without disclosing such facts pertaining to the filing and dismissal of the first petition. The appellant filed a complaint before the Bar Council of Delhi against respondent no.2 for filing the second writ petition in collusion with respondent no.1 on 15.12.2008. The High Court accepted the version of events submitted by the appellant, and simultaneously, also the apology tendered by respondent no.2 and thereafter, it closed the said criminal proceedings at the instance of respondent no.1, vide order dated 16.2.2009. After a period of six months thereof, respondent no.1 filed a criminal complaint under Section 3(1)(viii) of the Act 1989, for the filing of a false criminal writ petition by the appellant in the High Court of Delhi, and further and more particularly, the second writ petition, without disclosing the factum of filing and dismissal of the aforementioned first writ petition. The Metropolitan Magistrate rejected the said complaint vide order dated 13.8.2009 on the ground that the High Court had closed the contempt proceedings initiated against the appellant, as well as against respondent no.2, at the instance of respondent no.1. Aggrieved, respondent no.1 filed Revision Petition No.23 of 2009 before the ASJ, Rohini Court, Delhi. As regards FIR No. 16 of 2007, the Special Judge (SC/ST) refused to proceed against the appellant and others, making serious comments regarding the conduct of respondent no.1, as well as that of the investigating officer. The revision petition filed by respondent no.1 against order dated 13.8.2009, was allowed by the revisional court vide order dated 25.10.2010, which was then challenged by the appellant, before the High Court by way of him filing a petition under Section 482 Cr.P.C. as Crl.M.C. No.1262 of 2011, which has been dismissed by impugned judgment and order dated 14.12.2011.

**Decision of High Court:**

So far as Contempt Case (Crl.) No.10 of 1007 is concerned, it is evident that the appellant, after becoming aware of the fact that a second writ petition was filed in his name, filed a complaint before the Bar Council of Delhi, through its Secretary against respondent no.2 on 29.12.2007 (Annx. P/11), wherein it was stated that the said second writ petition No. 1667 of 2005 was filed without his instructions, using papers signed by him in good faith, in the office of respondent no.2, at his instance. Upon considering the reply of the appellant, the High Court issued notice to Pradeep Rana, Advocate, respondent no.2 in Contempt Case (Crl.) No. 10 of 2007, and thereafter, respondent no.2 filed his reply, wherein he submitted that even though the second writ petition was filed on the instructions of the appellant, however, he inadvertently, failed to mention the fact that he had filed the earlier writ petition and that the same had been dismissed, for which he tendered absolute and unconditional apology. The High Court, vide judgment and order dated 16.2.2009 disposed of the said contempt proceedings. The order reads as under: "Learned counsel for Ravinder Singh admits that Crl. Writ Petition No. 1667/2005 and Crl. Writ Petition No.2657/2006 were filed under his signatures but states that he being not well- versed in English would sign the petition and supporting affidavits in Hindi and that he was being guided by his counsel with respect to the contents of the petition. Mr. Pradeep Rana, learned counsel for Mr. Ravinder Singh express his regrets and tenders an unqualified apology for filing two identical petitions one after the other and not disclosing in the second petition that the first petition was filed and was dismissed. Keeping in view the young age of Mr. Pradeep Rana, learned counsel for the petitioner states that in view of the fact that Mr. Ravinder Singh has admitted that both petitions were filed under his signatures and given an explanation as to what had happened, the petitioner does not want to pursue the remedy against the counsel, the instant petition may be disposed of as not pressed. We dispose of the petition as not pressed." (Emphasis added) The aforesaid order hence, makes it crystal clear that the High Court was satisfied that the appellant had been guided by his counsel and that he himself was not well-versed with the English language and had also filed his supporting affidavit in Hindi and further that it had accepted the unqualified apology tendered by Pradeep Rana, respondent no.2, and that considering the fact that the advocate was of a young age, even though both petitions had been filed under the signature of the appellant, it had decided to drop the said proceedings, as respondent no.1 did not wish to pursue his remedy any further. Hence, the petition was disposed of, as the same was not pressed.

The facts on record make it evident that the land on which both parties claim title/interest had initially been allotted to one Anant Ram, a member of the Schedule Caste community, under the 20 Point Programme of the Government of India (Poverty Elevation Programme) and he sold it to one Ram Lal Aggarwal in the year 1989, who further transferred it to his son Anil Kumar Aggarwal in the year 1990. Anil Kumar Aggarwal sold the same to appellant Ravinder Singh in the year 2005. Respondent No. 1, who at the relevant time was holding a very high position in the Central Government, claimed that initial transfer by Anant Ram, the original allottee, in favour of Ram Lal Aggarwal was illegal and he could not transfer the land allotted to him by the Government under Poverty Elevation Programme and further that as the said land had been encroached upon by his father, he had a right to get his name entered in the revenue record.

Thus, it is clear that the respondent no. 1, became the law unto himself and assumed the jurisdiction to decide the legal dispute himself to which he himself had been a party being the son of a rank trespasser. Transfer by the original allottee at initial stage, even if illegal, would not confer any right in favour of the respondent no.1. Thus, he adopted intimidatory tactics by resorting to revenue as well as criminal proceedings against the appellant without realising that even if the initial transfer by the original allottee Anant Ram was illegal, the land may revert back to the Government, and not to him merely because his father had encroached upon the same.

**Legal issues involved**

The instant case is required to be decided taking into consideration the aforesaid settled legal propositions. The complaint in dispute filed by the respondent no.1 is based on the ground that there has been a false declaration by the appellant while filing the second writ petition as he suppressed the truth that earlier for the same relief a writ petition had been filed and it was done so to gain a legal advantage and therefore, it was a false, vexatious and malicious one attracting the provisions of Section 3(1)(viii) of the Act 1989. The High Court while dealing with the contempt case did not record such a finding. The first writ petition was dismissed in limine while the second was dismissed in default. The issue of filing a false affidavit has been dealt with by the High Court in contempt case which the respondent no.1 did not press further.

The High Court has dealt with the issue involved herein and the matter stood closed at the instance of respondent no.1 himself. Therefore, there can be no justification whatsoever to launch criminal prosecution on that basis afresh. The inherent power of the court in dealing with an extraordinary situation is in the larger interest of administration of justice and for preventing manifest injustice being done. Thus, it is a judicial obligation on the court to undo a wrong in course of administration of justice and to prevent continuation of unnecessary judicial process.

It may be so necessary to curb the menace of criminal prosecution as an instrument of operation of needless harassment. A person cannot be permitted to unleash vendetta to harass any person needlessly. Ex debito justitiae is inbuilt in the inherent power of the court and the whole idea is to do real, complete and substantial justice for which the courts exist. Thus, it becomes the paramount duty of the court to protect an apparently innocent person, not to be subjected to prosecution on the basis of wholly untenable complaint. In view of the above, the judgment of the High Court impugned herein dated 14.12.2011 as well as of the Revisional Court is set aside. Order of the Metropolitan Magistrate dated 13.8.2009 is restored.

**Held:**

The complaint filed by respondent no.1 under the provisions of Section 3(1)(viii) of the Act 1989 is hereby quashed. The appeal is thus allowed. Before parting with the case, it may be necessary to observe that any of the observations made herein shall not affect by any means either of the parties in any civil/revenue case pending before an appropriate authority/court.