

**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

Cr. MMO No. 155 of 2009.

Decided on: 26th February, 2010.

Parma Nand and others

...Petitioners.

Versus

Babli Devi

.....Respondent.

Coram

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting¹? Yes.

For the petitioners : Mr. Parmod Thakur, Advocate.

For the respondent : Mr. O.C. Sharma, Advocate.

SURINDER SINGH, J (Oral).

The instant petition has been moved under Section 482 of the Code of Criminal Procedure for quashing the order dated 1st July, 2008 whereby the petitioners herein were summoned in a complaint filed by the respondent under Sections 447, 427, 506, 379, 323 of the Indian Penal Code and Section 3(1) V, VI, XV of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, passed by the learned Sub Divisional Magistrate, Rampur Bushehar.

Heard. The lower Court's record was requisitioned and has been gone through.

Precisely the facts of the case can be stated thus. The respondent is a member of "Scheduled Caste". She alleged that on 31st January, 2000 the petitioners, who belong to the higher caste gave beatings to her and other family members. The matter was reported to SHO, Police Station, Narkanda, but he did not

¹Whether reporters of the Local papers are allowed to see the judgment? Yes.

register the FIR. Thus, a notice was sent to the higher authorities and FIR No.10 of 2006 came to be registered in Police Station, Kumarsain under the aforesaid Sections. It was also alleged that the accused petitioners removed the electric meter, water-pipes and also damaged a part of the house which was newly constructed by her. They also threatened the complainant with dire consequences, as such, out of fear she alongwith her husband came to Kumarhatti and settled down there. It was also alleged that the accused-petitioners addressed her and other family members as "Koli". It was also contended that accused-petitioners insisted upon the Public Works Department of Himachal Pradesh to construct the road through their *Nautor* rendering the entire land useless. It was clearly mentioned that on the aforesaid FIR the police started investigation, but later submitted the cancellation report to the Magistrate, which was sent by him for reinvestigation, but till date there was no progress.

The complaint was filed in the Court on 22nd December, 2007 with respect to the incident which took place in the year 2000. At that time, the matter was still pending investigation.

While conducting the enquiry under Section 200 of the Code of Criminal Procedure the learned trial Court despite coming to its notice conveniently ignored the provisions of Section 210 of the Code of Criminal Procedure. He did not call for the investigation report for consideration while considering the matter for issuing the process. Therefore, in these circumstances the impugned order dated 1st July, 2008 (Annexure P-6) is hereby quashed and set aside and it is directed that the learned trial Court shall call for the report of the investigation and thereafter hear the

learned Counsel for the complainant and on going through the evidence recorded by him and also after the police report shall pass the appropriate orders in the matter, as he deems fit under the law.

The record of the learned trial Court be returned.

The matter stands disposed of.

Cr.M.P. No.764 of 2009.

In view of the disposal of the main petition, this application is also disposed of.

February 26, 2010.
(rc)

(Surinder Singh),J.