

[2009] 8 S.C.R. 559

STATE OF PUNJAB

v.

HARDIAL SINGH AND ORS.

(Criminal Appeal No. 985 of 2009)

MAY 8, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR  
GANGULY, JJ.]**

*Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 – Rule 7 – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 – ss.3(2)(v), 9 – Penal Code, 1860 – ss. 364, 324, 323, 149 and 148 – Accused persons charged of committing offence under the 1989 Act and under IPC – Investigation – High Court quashed the entire proceedings holding that investigation was not by authorised officer in terms of Rule 7 – On appeal, held: Only investigation qua offences under 1989 Act was not proper and not those relatable to IPC – State may authorise any person in the manner prescribed, to investigate into the offences under the Act.*

*State of M.P. v. Chunnihal @ Chunni Singh JT 2009 (6) SC 256, relied on.*

**Case Law Reference:**

**JT 2009 (6) SC 256** relied on **Para 5**

**CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 985 of 2009.**

From the Judgment & Order dated 27.1.2006 passed by the High Court of Punjab & Haryana at Chandigarh in Criminal Revision No. 1118 of 2003.

K.K. Khurana, AAG, A.K. Mehta and Kuldip Singh for the Appellant.

A Narendra Singh Yadav, Nirmal Kr. Ambastha, Anurag Singh and Mushtaq Ahmad for the Respondent.

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.** 1. Leave granted.

B 2. Challenge in this appeal is to the judgment of a learned  
Single Judge of the Punjab and Haryana High Court passed  
in an application under Section 482 of the Code of Criminal  
Procedure, 1973 (in short the 'Code'). The respondents were  
accused of having committed the offences punishable under  
C Sections 364, 324, 323, 149 and 148 of the Indian Penal Code,  
1860 (in short the 'IPC') and Section 3(2)(v) of the Scheduled  
Castes and Scheduled Tribes (Prevention of Atrocities) Act,  
1989. The stand taken was that as per Rule 7 of the Scheduled  
D Castes and Scheduled Tribes (Prevention of Atrocities) Rules,  
1995 (in short the 'Rules') framed under the Act, investigation  
had to be undertaken by an officer not below the rank of Deputy  
Superintendent of Police specially appointed by the State  
Government/Director General of Police/Superintendent of  
E Police after taking into account of his experience, sense of  
ability and justice to perceive the implication of the case and  
investigate it along with right lines within the shortest possible  
time.

The stand of the State was that SP (D), Ferozpur had  
authorized Shri Manwinder Singh to investigate the case. It was  
F admitted that there is a SSP in Ferozpur district who shall come  
within the definition of SP under Rule 7 of the Rules. The High  
Court held that SP (D) cannot be called District SP or the  
incharge of the District who could mark investigation to DSP  
Manwinder Singh. It was, therefore, held that the charges  
G against the accused-respondents in the present case were to  
be dropped in respect of offences punishable under Sections  
364, 324, 323, 149 and 148 IPC, and Section 3(2)(v) of the  
Act. After having said so, the High Court said that the  
observation that so far as the other offences are concerned as  
H per report of the Deputy Superintendent of Police himself there

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had been party faction and efforts have been made to implicate many persons possibly the present petitioners. Strangely, the High Court found that the accused persons have been charged by the Additional Sessions Judge, Ferozpur for offence punishable under Section 364 IPC for abducting Surjeet so that he may be murdered.

But, having observed so the High Court said that it cannot be said that there was no prima facie case against the petitioners (meaning thereby the accused persons) to frame charges and disposed of the case in the above terms.

3. Learned counsel for the appellant-State submitted that the order is absolutely confusing. At one stage the High Court had directed the charges against the accused persons for all the offences both under the IPC and the Act to be dropped but at subsequent stage it had noted that it cannot be said that there was no *prima facie* case against the accused persons to frame the charges.

4. Learned counsel for the respondents supported the judgment.

5. As is rightly contended by learned counsel for the appellant-State the order is very confusing. Be that as it may the only question is whether investigation done by the police officer specifically authorized to do so in terms of the Rule 7 is illegal qua offences not relatable to any provision under the Act. Recently, the controversy of the present nature was decided by this Court in *State of M.P. v. Chunnihal @ Chunni Singh* (Criminal Appeal No. 943 of 2003) decided on 15.4.2009.

6. Having the view expressed in *Chunnihal's* case (supra) we hold that only investigation qua the offence under the Act is vulnerable and not those relatable to IPC. It is open to the State to authorize any person in the manner prescribed to investigate into the offences under the Act.

7. The appeal is allowed to the aforesaid extent.

D.G.

Appeal partly allowed.