

(2013) 08 P&amp;H CK 0860

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Criminal Miscellaneous No. M-26966 of 2013 (O and M)

Mahabir

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision:** Aug. 19, 2013**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 21 Rule 21, Order 21 Rule 58
- Criminal Procedure Code, 1973 (CrPC) - Section 323
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3

**Hon'ble Judges:** Ritu Bahri, J**Bench:** Single Bench**Advocate:** Rajiv Sharma, for the Appellant;**Final Decision:** Dismissed

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**Judgement**

Ritu Bahri, J.

Challenge is to the order dated 08.04.2013 (Annexure P-8) passed by the Additional Sessions Judge, Faridabad, whereby revision against the order dated 09.11.2012 (Annexure P-6) passed by the Judicial Magistrate, Ist Class, Faridabad, has been dismissed. Vide impugned order, the trial Court has dismissed the application filed by the petitioner u/s 323 Cr.P.C., for committing the case to Special Judge, Faridabad.

2. As per the allegation in the FIR (Annexure P-1), complainant-Mahabir (petitioner), who was doing agricultural work in his fields, went to drink water in a temple. One Surjit son of Karan Singh was also drinking water at that time. There was an exchange of abusive language between them over the issue of drinking water.

3. In the FIR, there is no allegation that Surjit had the knowledge that the complainant belongs to a Scheduled Caste community and with a view to insult him, he has used abusive language. The complainant, while appearing as PW-2, has

stated for the first time that Surjit has uttered the following words:-

I met with Surjit son of Karan Singh. I asked him why you do not allow us to take water at the tap. He said chamar-Dhed why have you touched the tap. I came out and he also came out and said chamar, today I will cut you and he gave me slap.

4. From these words, still the offence u/s 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for brevity "the Act"), is not made out, as the complainant could not explain, as to "whether the utterance was made in public view knowingly that the complainant belongs to a Scheduled Caste community." Furthermore, it has not been stated that Surjit did not belong to the Scheduled Caste community.

5. Since the essential ingredients, which are mandatory for summoning an accused to face trial under the Act, are missing, therefore, no ground is made out to interfere in the impugned orders. Dismissed.