

Court No. - 84

Case :- CRIMINAL APPEAL No. - 5726 of 2023

Appellant :- Ansu Kumari

Respondent :- State Of U.P. And 3 Others

Counsel for Appellant :- Avanish Kumar Pandey

Counsel for Respondent :- G.A.,Manoj Kumar Tripathi,Vinod Kumar Tirpathi

Hon'ble Mrs. Sadhna Rani (Thakur),J.

Heard learned counsel for the appellant, learned counsel for opposite party nos.2, 3 & 4 and perused the record.

This is an appeal against the order dated 15.04.2023 passed by the Special Judge SC/ST Act, Gautam Buddha Nagar in Complaint Case No.207 of 2023 (Anshu Kumari Vs. Ravi Verma and Others), Police Station Sector-58 Noida, District Gautam Buddha Nagar.

By impugned order, the application under Section 156(3) Cr.P.C. of the appellant was rejected by the trial court.

As per facts of the case, an application under Section 156(3) Cr.P.C. was moved by the appellant before the court concerned against all the three opposite party nos.2 to 4 with the allegation that the appellant, who belongs to SC/ST community used to work in Good Life Technology Pvt. Ltd., A-20 Sector -58 Noida, Gautam Buddha Nagar. This company works in the field of preparing food. Gradually the company Director Ravi Verma, Manager Narendra Kumar Nirala and Service Manager Vinod started her physical exploitation. They used to get provoked at small issues and used to hurl caste based words against her. Even after the working hours she was detained and called in another company by the opposite parties. The obscene activities were done with her. They also used to give threat to fire her. On the mobile also, they used to act obscene and used to ask her to do sexy talks on mobile. Due to their sexual harassment since 7th February she stopped going to the Company. On 23rd February when she again went there, Narendra Kumar Nirala and Vinod behaved in the obscene manner, uttered caste based words. She again stopped going to the firm. After some days she received the phone of opposite party no.2 Ravi Verma. He assured that now no one would do obscene activities with her. Again on 1st March, 2023 she joined the firm but there was no change in the behaviour of all the three opposite parties. They started asking her to spend one night with them and when they were given warning of complaint

in police against them they thrashed her, giving her threat of life and again used caste based words. She left the company and went to the police station but her report was not lodged. Then she sent a registered letter to the Commissioner of Police concerned, but no action was taken.

On this application under Section 156(3) Cr.P.C. the court concerned summoned a report from the police station concerned. The report of the police station was received by the court on 06.04.2023, wherein it was mentioned that as the appellant used to remain absent from her duties off and on and when on 1st March, 2023 she came and asked the person working on her seat to vacate her seat, the Director of the company and manager asked her to sit on the different seat that later on she would be adjusted. In anguish the appellant refused to work on the other seat and resigned from her service. On 1st March, 2023 itself she got three month salary, extra bonus, gratuity, in total Rs.4,70,037/- by cheque, which was later on encashed. As the appellant used to write her name as Anshu Singh, so no one in the company knew that she belonged to the SC/ST community. There is staff of eight persons in the firm including both male and the female. The behaviour of the Director and the Manager with the staff was good. In the cabin there are CCTV cameras installed. The appellant was an old employee of the firm with whom unwanted behaviour could not be expected. She on her own volition she resigned from the firm and filed this application on the false allegations. The police station sector 58, Noida is at the distance of 50 steps from the firm concerned. If there was something wrong she could have come to the police station or could also approach Mahila Help Desk, but nothing was done by her. It was also said that no report was lodged in the police station against the alleged accused persons.

After receiving this report, the court concerned passed the impugned order found the application to be filed on wrong facts. The court found that regarding injuries no medical report has been placed before the Court. On the same day all the dues of the appellant were cleared by the firm and she was given a cheque of Rs.4,70,037/- and thus finding that the appellant had not approached the court with the clean hands the application of the appellant was rejected.

From the perusal of the record, it is clear that the appellant was an old employee of the firm working from 2009 till 1st March, 2023 there and during this period of 14 years she never made a complaint against any of the employee or director or manager of the firm. As she is said to have assaulted and thrashed, no medical

report has been placed before the Court. She has also stated that on the mobile the obscene acts were done and she was asked to do sexy talks on the mobile but no whatsapp or other records of the mobile of the appellant has been placed before the Court. When the behaviour of the Director, Manager and Service Manager of the firm was not satisfactory with her why did she worked in the company for continuous 14 years, is also not cleared before the Court. Again in the counter affidavit filed on behalf of opposite party nos.2 to 4 it has come that she absented herself from the company without any information repeatedly. It was known that she was running her own business as a bakery shop in the name of 'style of Cake & Bake'. On 01.03.2023, when she reached at the firm and was given a separate seat to sit she submitted her resignation, which has been placed alongwith counter affidavit. Dues of Rs. 4,70,037/- alongwith payment of leave and three months salary were paid to her at once. All these versions of the counter affidavit are accepted in the rejoinder affidavit filed on behalf of the appellant. Alongwith counter affidavit the photographs of the office party are placed before the Court, wherein the appellant is seen in a jubilant mood. In her resignation letter, which is appended with the counter affidavit she herself has written that opportunities for growth and development were provided her during her tenure. Again in her resignation she thanked the firm for guidance and support. There is nothing incriminatory in her resignation letter. If there was something wrong all her dues could not be cleared on the very same day she asked for the same. Admittedly, she has received all her dues alongwith three months salary on 01st March, 2023 itself when she demanded the same.

Thus, in the opinion of the Court the allegation mentioned in the application under Section 156(3) Cr.P.C. moved by the appellant do not inspire the confidence of the Court and the trial court has rightly reached at the conclusion of rejecting this application with the version that no ground is found to get the FIR lodged on the basis of the allegations mentioned in the application under Section 156(3) Cr.P.C.

In the opinion of the Court, the application under Section 156(3) Cr.P.C. is found to be moved with mala fide intention to malign the reputation of the opposite party nos. 2 to 4. The appeal is liable to be dismissed.

The appeal is, hereby, **dismissed**.

Order Date :- 18.10.2023

Radhika