

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-32655 of 2014

Reserved On: 24.09.2015

Date of Decision: 5.10.2015

Aman Sharma alias Aman Rani

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Ajay Tewari.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Petitioner Aman Sharma alias Aman Rani
in person.

Ms. Amarjit Kaur Khurana, Additional Advocate
General, Punjab for respondents No.1 and 3 to 9.

Mr. Bhupender Singh, Advocate
for Mr. Mansur Ali, Advocate
for respondent No.2.

Mr. Atul Goyal, Advocate
for respondent No.10.

Ajay Tewari, J.

By this petition, the petitioner has prayed for quashing the
FIR No. 105 dated 1.6.2014 registered under Sections 323, 506 & 509
IPC and Section 3 of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 at Police Station Division No.5,

Ludhiana.

As per the FIR, a dispute arose between the petitioner and the complainant with regard to seating arrangement in Hall No.5 of the Judicial Complex, Ludhiana in December 2012. During this interregnum the petitioner was repeatedly using caste based words against the complainant. Ultimately, the matter came to a head on 31.5.2014, the petitioner attacked the complainant physically and also abused her by using caste words. The petitioner who is appearing in person has argued that FIR is false and has only been filed to somehow force the petitioner to relinquish the seat allotted to her by the President, District Bar Association, Ludhiana under the sanction of the District & Sessions Judge, Ludhiana. She has further argued that in view of the previous bad blood between the parties, this motivated complaint has been filed. She has also argued that actually it was she who received injuries and the Medicolegal Report of respondent No.10 is false and a counterblast to her Medicolegal Report. She has further argued that in the FIR, nothing has been mentioned about the complainant's attempts to get the keys from her but in the reply filed to this petition, respondent No.10 has accepted that she tried to get the keys from the petitioner. She has also accepted that she sent the messages which the petitioner has detailed in para No.6 of the petition. She has further argued that at one stage, the District & Sessions Judge had directed that she could not be asked to vacate her seat in Hall No.5 but the private respondents went on ensuring that the petitioner would lose her seat in Hall No.5 and that is the only reason for lodging this false FIR. She has also

argued that even with regard to the alleged incident on 22.5.2014 she had filed a compliant with the police along with the Medicolegal Report showing injuries to herself but no action has been taken thereon. She has further drawn the attention of this Court to documents (Annexures R3 & R4) which have been annexed by respondent No.10 with her reply and argued that on 30.5.2015 even as per these documents there was a compromise. The petitioner has argued that no compromise was effected on 30.5.2014 and as a matter of fact the document (Annexure R3) shows that the private respondents have tried to involve even her clients in the case, which is wrong. She has further stated that this document (Annexure R3) has been wrongly shown to be a compromise but it is not so. She has also argued that a perusal of document (Annexure R4) shows that Incharge of the Police Post is under their control and they had directed the said Incharge that nobody should even be heard in respect of this dispute. She has further argued that the documents (Annexures R5 to R8) have no relevance with the present case but they all show that the private respondents have a close nexus with the persons against whom the petitioner has made serious allegations. As per the petitioner, this nexus is also a part of the motive which the private respondents have for lodging the false FIR against her and the attempts of the respondents is not only to force the petitioner to vacate the seat allotted to her in Hall No.5 but also to force her to be out of the legal practice. She has further argued that the private respondents had a dispute with one Ajay Chanchal, Advocate and they were forcing the petitioner to join agitation against him but

because she did not join them, they had a grudge against her. She has further argued that as per the medical record annexed with the petition, it is clear that she is not in the physical shape to inflict any injury on any person. She has also argued that they have placed the documents on record which have been stolen from her briefs and in the challan it has been falsely shown that there are also other cases pending against her. She has further argued that on the record, there are instances where serious allegations have been levelled against other people but no FIR has been lodged on the complaints against them, however, against the petitioner this FIR has been lodged. She has further argued that she had also made a complaint about the incident of 31.5.2014 to the District & Sessions Judge, Ludhiana (Annexure P11) which was forwarded by him to the Incharge, Police Post, Judicial Courts Complex but no action has been taken thereon. She has further argued that on 5.6.2014 she had protested against the lodging of this false FIR but no action has been taken thereon and even she was not associated with the investigation of the false FIR and her statement was also not recorded.

The petitioner has relied upon the judgment of this Court rendered in ***Dr. Onkar Chander Jagpal and Another v. Union Territory, Chandigarh and another 2012(1) RCR (Criminal) 931***, wherein it was held as under:-

"14. A conjoint and meaningful reading of these provisions would reveal that I order to attract the penal provisions of Section 3(x) of the Act, it was incumbent

upon the complainant to specifically mention in her complaint and the FIR should disclose that (I) the petitioners-accused were not the members of Scheduled Caste or Scheduled Tribe; (ii) they knew that she (complainant) was a member of Scheduled Caste or Scheduled Tribe; (iii) they intentionally insulted or intimidated with intent to humiliate her as a member of Scheduled Caste or Scheduled Tribe and (iv) in any place within public view. The words "intentionally insulted with intent to humiliate as a member of Scheduled Caste/Scheduled Tribe in any place within public view", have significant meaning. An insult by words caused to a member of scheduled caste or scheduled tribe within public view, means at the time of alleged insult, the person insulted must be present in public view. In other words, the words "within public view" means the public must view the person being insulted, for which, he must be present and in the absence of public view, no offence alleged under this Section is attracted."

Learned counsel for the respondents has relied upon a judgment rendered by the Hon'ble Apex Court in ***Swaran Singh and Others v. State through Standing Counsel & Another 2008(4) RCR (Criminal) 74***, wherein it was held as under:-

"25. A perusal of the FIR clearly shows that, *prima facie*, an offence is made out against the appellants 2 and 32. As already stated above, at this stage we have not to see whether the allegations in the FIR are correct or not. We have only to see whether treating the FIR allegations as correct an offence is made out or not. In our opinion, treating the allegations in the FIR to be correct an offence under Section 3(1)(x) of the Act is *prima facie* made out

against appellants 2 and 3 because it prima facie seems that the intent of the appellants was to insult or humiliate the first informant, and this was done within the public view.

26. *Of course, it will be open to the appellants 2 and 3 to put up their defence at the trial, and the trial Court may or may not accept the correctness of the allegations in the FIR. However, at this stage we cannot quash the FIR against them and the trial must proceed."*

In this case a reading of the FIR itself reveals that if the allegations are taken as correct, the acts of the complainant do constitute an offence. However, the petitioner persisted in arguing that in view of the past differences between the parties, this Court should quash the present FIR.

In my opinion, the prayer cannot be accepted. Of course if the allegations made by the petitioner are proved during the course of trial, the Court would give necessary relief to her but quashing of the FIR cannot be done on such averments in view of the Hon'ble Supreme Court's judgment in ***Swaran Singh's case*** (*supra*). Thus, the present petition is dismissed.

(Ajay Tewari)
Judge

October 5, 2015

"DK"