

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-37690 of 2013

.....

Date of decision:13.8.2015

Geeta

.....Petitioner

v.

State of Haryana and another

.....Respondents

....

Present: Mr. N.S. Shekhawat, Advocate for the petitioner.

Mr. Satish Saini, Deputy Advocate General, Haryana for
the respondent-State.

Mr. Ravinder Malik, Advocate for complainant-respondent
No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.87 dated 22.2.2013 (Annexure-P.8) registered for the offences under Sections 419, 420, 452, 467, 468, 471 and 506 IPC at Police Station Model Town, Panipat and all subsequent proceedings arising therefrom.

It is mainly stated in the petition that the petitioner is residing at Dharangdhara (Gujarat) and is working as P.G.T. (Computer Science) in Kendriya Vidyalaya, Dharangdhara. She is performing her duties sincerely and honestly and is living with her daughter, who is aged more than nine years. Respondent No.2-complainant is the husband of the petitioner and she has been falsely implicated in the instant case. It is stated in the petition

that the petitioner belongs to 'Chamar' caste, which falls under scheduled caste category as per the government notification. Respondent No.2-complainant belongs to 'Nai' caste, which is in the category of Other Backward Class (OBC). The petitioner and respondent No.2 had performed their inter-caste love marriage as per Hindu rites and ceremonies on 23.6.2002 and a female child was born out of this wedlock. After the marriage, matrimonial dispute arose. It is also the case of the petitioner that she belongs to 'Chamar' caste, which is a lower caste and respondent No.2 pressurized her not to disclose it to anyone. In the year 2007, the petitioner applied for the post of P.G.T. (Computer Science) in Kendriya Vidyalaya Sangathan (Central School Organization). At the time of interview also, respondent No.2 insisted that the petitioner is married to him and she is entitled to apply in OBC category. Since the petitioner is a Scheduled Caste by birth, she was otherwise also entitled for reservation in the matters of employment, being a scheduled caste by birth. But respondent No.2 himself made efforts and insisted that the petitioner had become OBC and she should apply in the said category after her marriage. However, the petitioner did not want to conceal anything from the Central School Organization and even at the time of her interview, she disclosed to the authorities that she actually belongs to a scheduled caste category. However, as her husband belongs to 'OBC' and she was claiming 'OBC' category as per the caste of her husband. The copy of the check-list prepared by the Central School Organization has been annexed as Annexure-P.1 and the petitioner had shown both the 'SC' and 'OBC'

certificates issued to her. The petitioner lodged FIR on 7.6.2010 against respondent No.2 for the offences under Sections 323, 342, 498-A, 506 and 34 IPC and challan had already been presented. Again another FIR was registered against respondent No.2 on 12.6.2010 for the offences under Sections 147, 149, 323, 427, 452 and 506 IPC and Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities), Act.

In the meantime, on 9.6.2010, Bimla Devi, mother of respondent No.2 also filed a criminal complaint in the Court of learned Additional Chief Judicial Magistrate, Panipat against the petitioner for the offences under Sections 452, 380, 355, 341 and 120-B IPC, which is Annexure-P.6. Respondent No.2 also filed a divorce petition in the Court of learned District Judge, Panipat on 7.10.2010, which was later on withdrawn. She stated that it is a false case to implicate her and pressurize her to withdraw all her cases, respondent No.2 filed a criminal complaint against her in the Court of learned ACJM, Panipat, which was sent under Section 156(3) Cr.P.C. to the local Police and consequently present FIR No.87 dated 22.2.2013 for the offences under Sections 419, 420, 467, 468, 471, 452 and 506 IPC had been lodged. Now the case is pending before the Judicial Magistrate Ist Class, Panipat. It is also stated in the petition that the broad allegations levelled in the present FIR are that there is joint locker in Punjab National Bank and there was jewellery and registry of the house in that locker which was always being operated by the petitioner. She also made respondent No.2 to get the FDs in her name fraudulently and cheated him. She belongs to SC category, whereas she cheated the Government by getting

the certificate of 'OBC'. The petitioner had taken a sum of ₹3 Lacs from her husband i.e. respondent No.2 by saying that she wanted this money for her transfer and were to be given to higher officers. Neither the money was returned nor the petitioner allegedly contacted respondent No.2. She threatened respondent No.2, when he demanded the money back. On 12.5.2010, the petitioner operated the joint locker and took away the jewellery and the registry of the house. It is also the allegations, that the petitioner moved a false complaint of dowry against respondent No.2. The petitioner changed the name of her daughter without the permission of respondent No.2. The petitioner is pressurizing respondent No.2 to give a sum of ₹10 Lacs. The petitioner tried to take possession of the house of respondent No.2 and wanted to sell the house.

Notice of motion was issued in this case. Mr. Satish Saini, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State and Mr. Ravinder Malik, learned Advocate has appeared on behalf of complainant-respondent No.2 and contested this petition. Reply was also filed by the State.

I have heard learned counsel for the parties and have gone through the record. First of all, it is clear that the parties are residing separately since 7.6.2010 as the FIR had been got registered as stated in the petition by the present petitioner against respondent No.2 and his parents on 7.6.2010 for the offences under Sections 323, 342, 498-A, 506 and 34 IPC in Police Station Model Town, Panipat, copy of which is Annexure-P.2. As per the averments, which are not contested at the time of arguments, mother

of respondent No.2, namely, Bimla Devi also filed a criminal complaint on 9.6.2010 against the present petitioner for the offences under Sections 452, 380, 355, 341 and 120-B IPC, which is Annexure-P.6. Then respondent No.2 also filed a divorce petition in the Court of learned District Judge, Panipat on 7.10.2010, which was later on withdrawn by respondent No.2, which is Annexure-P.7. There are no allegations, which are levelled in the present FIR by respondent No.2, in the complaint filed on 9.6.2010 by Bimla Devi, mother-in-law of the present petitioner nor in the divorce petition which was filed on 7.10.2010 by respondent No.2. Otherwise also, all these allegations that she opened the locker or she took the money from her husband are of the period when the petitioner was residing with her husband. Merely operating the locker or taking the money from the husband etc. and the allegations of changing the name of her daughter etc. do not constitute any offence. Rather, these are the minor bear and tear of the family life. Now only allegation remains regarding preparing of 'OBC' certificate and using the same.

Learned counsel for the petitioner argued that as she was Scheduled Caste and entitled to reservation in the Government job, therefore, there is no question of cheating the Government or taking any benefit. Rather, the reservation for Scheduled Caste is more than the 'OBC' category. Further more, the petitioner placed reliance on AnnexureP.1 check-list of the Kendriya Vidyalaya Sangathan (Central School Organization), where in column No.8, it is written that she actually belongs to Scheduled Caste, husband belongs to 'OBC' and she is claiming 'OBC' as per her

[6]

husband's category, which means that all the facts have been disclosed to the concerned department before taking the appointment. Otherwise also, the Kendriya Vidyalaya Sangathan has not lodged any FIR nor they are aggrieved persons levelling any allegation of cheating or fraud against the present petitioner. It is only the husband with whom the petitioner has matrimonial dispute and strained relations alleging that the petitioner has cheated the Kendriya Vidyalaya Sangathan. From all these documents and from the record, I find that the registration of the FIR on 22.2.2013 after a long period when the matrimonial dispute arose prior to 7.6.2010 amounts to abuse/misuse of the process of the law. If these allegations regarding taking of jewellery or taking money from the husband etc. even if amounts to any offence, then as to why these allegations were not levelled in the earlier complaint dated 9.6.2010 filed by mother-in-law of the petitioner and then in the divorce petition which was filed on 7.10.2010 by respondent No.2.

Therefore, from the above discussion, I find merit in the present petition. The filing of this FIR is nothing but an abuse and misuse of the process of the law. Consequently, this petition is allowed and FIR No.87 dated 22.2.2013 (Annexure-P.8) registered for the offences under Sections 419, 420, 452, 467, 468, 471 and 506 IPC at Police Station Model Town, Panipat and all subsequent proceedings arising out of the same are hereby quashed.

August 13, 2015.

(Inderjit Singh)
Judge

hsp