

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: February 05, 2015

+ CRL.M.C. 433/2015 & Crl. M.A.Nos.1711/2015 & 1712/2015

VIMLA SINGH

..... Petitioner

Through: Mr. Siddhartha Luthra & Manoj
Ohri, Senior Advocates with Mr.
P.B.Singh & Mr. Shiv Pandey,
Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State with SI Sudhir Kumar

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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In FIR No. 268/2012, under Sections 420/468/471 of the IPC, registered at police station Vasant Kunj, New Delhi, petitioner is accused of obtaining the job of a teacher in the year 1995, on the basis of false caste certificate. After investigation, charge-sheet has been filed before the trial court.

Vide order of 23rd September, 2014 trial court has directed the Investigating Officer of this case to file the supplementary charge-sheet in respect of probable role of petitioner's husband in attesting the caste certificate of petitioner. A direction has been issued to the Investigating

Officer to file FSL Report regarding handwriting on the application form and the caste certificate. By subsequent orders of 5th December, 2014 and 18th December, 2014, trial court has sought compliance report regarding filing of the supplementary charge-sheet in terms of order of 23rd September, 2014.

In this petition, quashing of FIR in question and aforesaid orders is sought on the ground that the genuineness of the caste certificate can be determined only by the '*Caste Scrutiny Committee*'.

At the hearing, learned senior counsel for petitioner had submitted that the registration of this FIR is in violation of the Office Memorandum of 29th March, 2007 issued by the Ministry of Personnel P.G. Pensions, Department of Personnel & Training, Government of India (*Annexure A-2*). Reliance was placed upon decisions in *Kumari Madhuri Patil and Anr. Vs. Addl. Commissioner, Tribal Development & ors.* (1994) 6 SCC 241; *Dayaram Vs. Sudhir Batham & ors.* (2012) 1 SCC 333; *Vikas Jagdish Shipuriya & anr. Vs. State of M.P.* 2002 (3) M.P.L.J. 417 and *Malkit Singh Vs. State & anr.* 2011 (2) Crimes 175 (M.P.) to submit that the genuineness of the caste certificate can be only certified by the *Caste Scrutiny Committee* of the State concerned and in the instant case, it is to be certified by the *Caste Scrutiny Committee of State of Uttar Pradesh*, which has not been done and so, continuance of proceedings arising out of FIR in question is unwarranted. Impugned orders of 23rd September, 2014, 5th December, 2014 and 8th December, 2014 are assailed by learned senior counsel for petitioner by submitting that under the Code of Criminal Procedure, further investigation is directed but law does not give any power to the court to direct the Investigating Officer to file a

supplementary charge-sheet and so, impugned orders deserve to be quashed.

Upon Notice, Mr. Navin Sharma, Additional Public Prosecutor for respondent-State submits that it is the compliance report only which is to be submitted to the trial court and it can be also done in the form of supplementary charge-sheet. Also attention of this Court was drawn by learned Additional Public Prosecutor for respondent-State to the Verification Report of 7th March, 2006 from the District Magistrate, Gajipur, Uttar Pradesh to submit that the report regarding the caste certificate in question has been already obtained and no case for quashing of the FIR is made out, as the further investigation in this FIR case is under progress.

Upon hearing and on perusal of the FIR in question, impugned orders, material on record and the decisions cited, I find that the directions issued by the trial court in impugned orders to file supplementary charge-sheet is uncalled for. Upon further verification qua the role of husband of petitioner, the Investigating Officer is required to file the final report along with the FSL result. The outcome of further investigation cannot be pre-determined by giving direction that the supplementary charge-sheet be filed.

Let the further investigation be undertaken by the Investigating Officer with expedition and thereafter, final report be filed before the trial court. The impugned orders are clarified to the extent that instead of filing the supplementary charge-sheet, Investigating Officer is required to file final report. As regards obtaining of Verification Report from the *Caste Scrutiny Committee* is concerned, this Court finds that in *Kumari*

Madhuri Patil (Supra) the requirement of obtaining the certificate from Caste Scrutiny Committee was stressed and the said dictum of the Apex Court in *Kumari Madhuri Patil (Supra)* has been reiterated by the Apex Court in its later decision in *Dayaram (Supra)*.

In view of the dictum of Apex Court in *Kumari Madhuri Patil (Supra)* as reiterated in *Dayaram (Supra)*, let the prosecution obtain a Verification Report regarding caste certificate in question from the *Caste Scrutiny Committee, Babu Bhawan, Uttar Pradesh Sachivalya, Lucknow, Uttar Pradesh* and for this purpose, communication be addressed to the Principal Secretary, *Samaj Kalyan Vibhag, Naveen Bhavan, Uttar Pradesh Sachivalya, Lucknow* and thereafter only, final report be filed before the trial court.

With aforesaid directions, this petition and applications are disposed of.

Copy of this order be given *dasti* under the signatures of Court Master to counsel representing both the sides.

(SUNIL GAUR)
JUDGE

FEBRUARY 05, 2015

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