

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-27117 of 2013

.....

Date of decision:12.5.2016

Satpal Malik

.....Petitioner

v.

Manoj Kumar

.....Respondents

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Sunil Sheoran, Advocate for the petitioner.

None for the respondent.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of criminal complaint No.602/1 dated 24.9.2004/21.12.2004 (Annexure-P.6) filed for the offences under Sections 323, 166, 425, 467, 468, 506 and 120-B IPC and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 pending in the Court of learned Judicial Magistrate Ist Class, Jind and all the consequential proceedings arising out of it vide orders Annexures-P.8 and P.9.

Notice of motion was issued in this case. Learned counsel for the respondent earlier appeared and later on absented from the proceedings.

At the time of arguments, learned counsel for the petitioner argued that complaint (Annexure-P.6) was filed by the complainant-Manoj

Kumar (present respondent) against the present petitioner-Sat Pal Malik and Ram Kishan Sharma, Som Dutt Sharma and Mange Ram Sharma and this complaint has been quashed qua Mange Ram, Ram Kishan Sharma and Som Dutt Sharma by this Court vide orders dated 22.5.2013 passed in Criminal Misc. No.M-32555 of 2009 and Criminal Misc. No.M-249 of 2010. He argued that this Court held that no case is made out. This Court further held that the complainant has failed to specify his caste in the complaint. The complainant has also failed to state that the respondents were aware of his caste and quashed the proceedings. It is also held by this Court that criminal proceedings initiated by the respondents are mala fide and abuse of the process of law. Therefore, he argued that the complaint be also quashed qua the present petitioner.

I have gone through the order passed by this Court vide order dated 22.5.2013. In this order, this Court has quashed the proceedings against the other three co-accused by holding that the perusal of the complaint revealed that the complainant has failed to specify his caste in the complaint. The complainant has also failed to state that the respondents were aware of his caste. This Court further held that it appears that since the complainant has failed to qualify the type test on many occasions, he had filed the complaint in question against the petitioner. The respondent/complainant was appointed as Clerk in Education Department on compassionate grounds on 25.1.1999 and he failed to qualify the type test till the year 2005. He had availed several chances in this regard. The Court after discussing the averments of the complaint etc. held that it appears that

[3]

criminal proceedings initiated by respondent-complainant are mala fide and abuse of process of law. The complaint has already been quashed against the other accused as it appears that the criminal proceedings initiated by the complainant are mala fide and abuse of the process of law and further it has been observed that no offence qua accused etc. has been made out and the only purpose to file this complaint was because he could not qualify the type test after availing several chances in this regard. This Court also held that it is probable that aggrieved by the factum of his failure in the type test the complainant might have falsely involved the petitioner in this case.

Keeping in view the above facts and circumstances, I find that the filing of the complaint and the subsequent proceedings arising out of the said complaint are nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, this petition is allowed and criminal complaint No.602/1 dated 24.9.2004/21.12.2004 (Annexure-P.6) filed for the offences under Sections 323, 166, 425, 467, 468, 506 and 120-B IPC and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 pending in the Court of learned Judicial Magistrate Ist Class, Jind, summoning order and all the consequential proceedings arising out of it are hereby quashed.

May 12, 2016.

(Inderjit Singh)
Judge

hsp