

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No.M-4064 of 2014 (O&M)
Date of Decision: April 06, 2017**

Neena Kumari

.....PETITIONER(s).

VERSUS

State of Punjab and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.K. Khetarpal, Advocate
for the petitioner (s).

Mr. Ashish Sanghi, D.A.G., Punjab.

Mr. K.S. Sidhu, Advocate
for respondent No.2.

SURINDER GUPTA, J.

This is petition filed by Neena Kumari seeking quashing of complaint bearing No.RT-8/1.11.2012 titled as "*Krishan Kaur Vs. Neena Kumari & other*" and summoning order dated 19.12.2012, passed by Judicial Magistrate 1st Class, Mohali.

The complaint was filed by Krishan Kaur with the allegations that petitioner-accused No.1 is living in front of her house with Mohan Lal, accused No.2 in illicit relationship and both indulged in such type of activities which are not only indecent, but are also harmful for the brought-up of children in the locality. Both use defamatory words in public regarding caste of the complainant by openly claiming that "*Aaj Chure*

Chamaran Da Kam Khatam Hi Kar Dena” and *“Ena Chure Chamaran Di Hawa Thik Karni Aaj”*. The matter was reported to the police but no action was taken as accused No.2 is claiming himself as Inspector in Punjab police. When anybody from the society tried to suggest or stop both of them from doing above-mentioned activities, they not only threatened that person but also manhandled him. On 11.09.2010, when respondent No.2-complainant requested petitioner-accused No.1 and accused No.2 not to indulge in any such type of activities which are adversely effecting the children of the locality, both along with one Manoj Kumar and few unknown person stopped the complainant when she was going outside with her family friends. At that time, they were armed with deadly weapons and chased the complainant and her sons even inside their house with motive to kill them. This matter was also reported to SHO, Police Station Naya Gaon and Senior Superintendent of Police, Mohali but no action was taken. It is further averred that petitioner and accused No.2 have created atmosphere of fear in the locality which has caused insecurity amongst children as well as elders of the locality. One day, complainant was standing in front of her house, when accused No.3 and 4 i.e. Gian Singh and Sangeeta daughter of Gian Singh came there and used remarks against caste of the complainant. A day before the filing of complaint, accused No.2 Mohan Lal came to the house of petitioner and started doing obscene act with her. He asked the applicant *“Je Tu Vi Mere Naal Rehna Ta Aaja”*(if you want to reside with me, you may come). When the complainant objected to such remarks, the petitioner came in the street with a gas cylinder and threatened her and neighbour Anu that she will put herself on fire and level the allegations on complainant and

her neighbour Anu's family.

Though the application was filed by complainant under Section 156(3) Cr.P.C., it appears that learned trial court treated the application as complaint and after recording preliminary evidence, summoned the petitioner and other accused to face trial. Petitioner was summoned to face trial for the offences punishable under Sections 307, 452, 309 read with Section 34 of Indian Penal Code (for short-IPC) and Section 3 (i)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Accused No.3 to 5 named in the complaint were not summoned.

After summoning, petitioner and other accused Mohan Lal put in appearance before the trial court and from the report of District and Sessions Judge, SAS Nagar (Mohali) dated 23.02.2017, it appears that complaint was committed to the Court of Sessions, where petitioner along with other accused was charge-sheeted; prosecution evidence was concluded and statements of accused under Section 313 Code of Criminal Procedure was recorded on 15.07.2016. Vide order dated 03.02.2014, passing of final order by the trial Court was stayed, as such, the complaint is pending before the trial Court for final disposal.

Learned counsel of the petitioner has argued that offence under Section 3(i) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not made out against the petitioner as she herself is a scheduled caste and from the allegations in the complaint, no offence under Sections 307, 452 IPC is disclosed against the petitioner and she could not be summoned under these sections.

The case has reached final state of trial and the parties appears

to have concluded their evidence. As to whether the petitioner belong to scheduled caste is a fact which she could prove before the trial court by leading evidence. This petition was filed against the summoning order but thereafter, the case was committed to the court of Sessions, where the charges were framed and evidence of prosecution was concluded. During the course of arguments, it could not be pointed out as to for what offence, the petitioner has been charge-sheeted by the trial Court. At this stage, when the complaint is fixed for final disposal, it will not be appropriate to give any observation regarding the allegations, particularly in the absence of charge-sheet and evidence of the prosecution on record. It will be appropriate for the petitioner to raise all the pleas taken in this petition before the trial Court at the time of disposal of complaint on merits.

Keeping in view the above fact, I find no merits in this petition and the same is dismissed.

However, the petitioner is given opportunity to raise all the pleas taken in this petition and available to her before the trial Court at the time of disposal of the complaint.

April 06, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***