

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

CRM No.M-8524 of 2016 (O&M)

Date of Decision: July 20, 2017

Pardeep Aggarwal

...Petitioner

VERSUS

Manpreet Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajat Malhotra, Advocate for
Mr.Anupam Singla, Advocate
for the petitioner.

Mr.Gurcharan Dass, Advocate
for respondent No.1.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against Manpreet Kaur and other respondents for quashing of complaint No.94/I of 05.08.2011, C.Gen No.CHI/40280/ 2013 and summoning order dated 31.10.2015 along with all consequential proceedings taken thereupon.

Notice of motion was issued to respondent No.1 only. Learned counsel for respondent No.1 appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Manpreet Kaur complainant filed a complaint against Pardeep Aggarwal, Chief Executive Officer, Zila Parishad, Amardeep Singh Gujral, Deputy Chief Executive Officer, and

Jatinder Singh Tung, Director, Rural Development and Panchayats under Sections 166, 499, 500, 506 and 34 IPC. The brief averments of the complaint as noted down by learned JMIC, Ludhiana, are as under:-

“2. Brief facts of the present complaint are that the complainant was appointed as E.T.T Teacher vide appointment letter 26.06.2006 (Annexure-1) of the Office of Zila Parishad, Ludhiana and in the said appointment letter it has been specified that services of complainant will be governed as per Punjab Panchayati Raj Primary Teachers Recruitment and Conditions of Service) Rules 2006 which may be amended from time to time and it has been further prescribed that except provided in the rules, the post of not transferable. After appointment, the complainant was posted as E.T.T. Teacher at Government Primary School, Uppal Block, Ludhiana-II. The complainant was/is performing her duties as E.T.T Teacher honestly and diligently as well as to the satisfaction of the authorities at Government Primary School, Uppal Block-Ludhiana II. Further complainant vide order/letter dated 25.1.2008 (Annexure-2) of the Block Development and Panchayat Officer, Ludhiana-II was appointed as senior teacher with a direction that she will be responsible for all the schemes, mid-day meals and taking care of all record and it was also made clear to her that in case of any negligence, she will be personally responsible for the same. Vide letter dated 01.12.2010 (Annexure-3) issued by the accused no. 2, the complainant was informed that as per letter No. 21919 dated 1.12.2010 of the Director Rural Development and Panchayats (Accused No. 3), till further order she has been posted at Government Primary School, Raipur Bet, District Ludhiana and she was asked to submit joining report in the concerned school. But the complainant showing her resentment on the said very letter Annexure-3 of the complainant made a representation dated 8.12.2010 (Annexure-4) to the accused no. 2 whereby stating that she be not transferred/posted to Government Primary School, Rajput Bet as being head of the Government Primary School Uppal, Block Ludhiana-II and as per letter 25.01.2008 (Annexure-2) of the department, she is having complete charge of the school and further the work of utilization of the government grants is going on. Though the representation (Annexure-4) made by the complainant was sent in original with recommendation dated 31.12.2010 (Annexure-5) by the accused no. 2 to accused no. 3, but without any effect. Rather on the other hand, the complainant was suspended from her services by the accused no. 2 vide office order dated 14.01.2011 (Annexure-6) whereby in the said office letter also stating that it is as per order dated 13.01.2011 of the accused no. 1. As per appointment letter dated 26.06.2006 and Punjab

Panchayati Raj Primary Teacher (Recruitment and Conditions of service) Rules, 2006 (amended upto date) which are applicable in case of complainant, the post of the applicant is not transferable and the competent authority for suspension of an employees is the accused no. 3 and not the accused no. 1 and 2. But all the accused persons knowing and deliberately in order to cause injury and wrongful loss to the complainant as well as disobeying the law, firstly transferred/posted the complainant from Government Primary School Uppal, Block Ludhiana-II to Government Primary School Raipur Bet, District Ludhiana and thereafter with their common and malafide intention in order to cause further injury and wrongful loss to the complainant, they in contravention of the rules suspended the complainant. Consequently due to the said illegal and wrongful act on the part of the accused persons, the complainant suffered a lot of mental tension, agony, physical suffering as well as monetary loss. As such, all the accused persons knowingly and deliberately in connivance with each other as well as with their common and malafide intention by disobeying the applicable and settled law committed the abovesaid offence against the complainant and caused her wrongful loss and injury. Not only as stated above, but when the complainant time and again requested all the accused persons that their abovesaid act qua transferring and suspending the complainant is totally illegal and against natural justice and she will knock the door of law and challenge their said illegal act before the competent authority/Court, all the accused persons also threatened the complainant with dire consequences and further threatened to the lives of complainant and her family members, in case the complainant challenge their abovesaid illegal act before any competent authority or court. Due the abovesaid illegal act of all the accused persons qua suspending the complainant from her services, the reputation of the complainant has been lowered upon in the estimation of right thinking members of the society. The relatives, friends and other people of the society started shunning, avoiding and viewing the complainant with feeling of hatred. It made impossible for the complainant to walk in the general public or to attend any public function. The aspersions so made on the part of the accused persons have lowered the moral and intellectual character and reputation of the complainant to unbelievable depth and further it disparaged and injury the reputation of the complainant. The act made by the accused was illegal, false, ironical and derogatory and have been simply made to defame, disgrace and humiliate the complainant in the eyes of public at large and right thinking people of the society. The complainant alongwith her husband had gone to the Police Station, Koom Kalan, Ludhiana and reported the abovesaid matter to the police and for taking necessary action and registration of FIR against the accused persons, but the police neither registered

any complaint against the accused persons nor became ready to take any action against them on account that the accused persons are of having high rank officer (s). Hence, this complaint.”

Learned JMIC, Ludhiana, summoned accused No.1 and 2 under sections 166, 499, 506, 500 and 34 IPC.

After hearing learned counsel for the parties and after going through the record, I find that the main allegations are that the complainant was posted as ETT teacher and then she was appointed as Senior Teacher. It is the case of the complainant that she was transferred and posted at Government Primary School, Raipur Bet, District Ludhiana and asked to submit joining report. It looks from the facts of the case that complainant has not joined at new place of posting, therefore, she was suspended.

Learned counsel for the complainant-respondent No.1 argued that suspension order has been passed in violation of the Rules and complainant could not be transferred.

From the record, I find that the orders have been passed in performance of the official duty and even if it is treated that there is some violation of the Rules, in no way, it amounts to defamation. There is nothing on the record that the accused have committed any offence. No sanction under Section 197 Cr.P.C. has been obtained.

From the record itself, it is clear that no offence has been committed by simply transferring the present complainant from one school to another. Filing of the present complaint is nothing but abuse of process of law and has been filed just to harass the accused in this case. The summoning order dated 31.10.2015 passed by learned JMIC, Ludhiana,

amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. The complaint No.94/I of 05.08.2011, C.Gen No.CHI/40280/2013, summoning order dated 31.10.2015 and all subsequent proceedings arising therefrom, are hereby quashed.

July 20, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No