

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

**CRM-M No.23183 of 2013
Date of Decision:16.01.2018**

Lalit Kumar

.....Petitioner

Vs

State of Haryana and another

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Satish Saini, D.A.G., Haryana.

Mr. R.A. Sheoran, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this petition under Section 482 Cr.P.C. for quashing FIR No.289 dated 18.12.2012 registered under Section 506 IPC at Police Station Dadri City, District Bhiwani.

[2]. Brief facts are that respondent No.2 is the Principal of Janta Vidya Mandir Ganpat Rai Rasiwasia College, Charki Dadri which is a government aided college and is managed by the Governing Body. Petitioner applied for the job in the aforesaid

college. Petitioner was appointed as a clerk on 01.09.2000. Services of the petitioner were terminated by respondent No.2 on 08.08.2002. Petitioner continued to work and he was issued fresh appointment letter on 16.08.2002 on the condition that he will draw a consolidated salary of Rs.3700/- per month inspite of Rs.4,000/- per month granted to him earlier. Petitioner accepted the said bargain being in hardship. The services of the petitioner were again terminated on 08.04.2004. Petitioner filed appeal before the Commissioner, Higher Education, Haryana and the order of termination was set aside vide order dated 08.05.2007. Petitioner was reinstated.

[3]. Petitioner obtained information under the Right to Information Act, 2005 in the context of pay scale available to non-teaching staff of the college working on sanctioned as well as on non-sanctioned posts. It was only the petitioner, who was not brought in the cadre of clerk, whereas all the employees either on teaching or non-teaching posts were allowed regular pay scales. Petitioner made a representation to the respondents for grant of regular pay on the principle of equal pay for equal work. Petitioner served a legal notice to the College on 15.11.2008 and then filed CWP No.21200 of 2008. The said writ petition was disposed of by the High Court directing the authorities to pass a speaking order within specified period vide

order dated 18.12.2008.

[4]. On 30.01.2009, respondent No.2 passed a speaking order and found the petitioner entitled for regular pay scale and recommended the case of the petitioner for grant of regular pay scale. However on 24.04.2009, a fresh order was passed declining the regular pay scale to the petitioner. No reason was assigned by the then Principal of the College. Unwarranted remarks were made against the petitioner. Petitioner filed appeal before the Commissioner, Higher Education, Haryana under the Haryana Aided Colleges Service of Security Act. The Appellate Authority directed the College management to resolve the issue amicably.

[5]. On 30.08.2010, it was endorsed that a regular pay scale was being granted to the petitioner retrospectively so as to maintain parity amongst the employees. Arrears were to be paid to the petitioner. In the aforesaid context, the Principal also sent a letter dated 17.09.2010 to the Director, Higher Education, Haryana. The Director also communicated to the petitioner to do the needful at his own level vide letter dated 17.09.2010. Needful was not done. Petitioner sent numerous representations for the implementation of letter dated 30.08.2010, but the same was not implemented despite reminders sent by the petitioner. Legal notice was also sent by

the petitioner on 09.10.2012, but the same yielded no result. Thereafter the FIR No.289 was got registered on 18.12.2012 against the petitioner for the offence under Section 506 IPC in Police Station Dadri City in order to pressurize the petitioner.

[6]. Learned counsel for the petitioner submitted that as per allegations in the FIR, allegation of misbehavior and threats were made against the petitioner. It was alleged by respondent No.2 that the petitioner came in his office at about 2.30 p.m., when he was called by the Principal for disbursement of DMC. Petitioner torn the papers and threatened respondent No.2 to kill him. It was also alleged that the petitioner had polluted the normal atmosphere of the College.

[7]. Learned Counsel by referring to **Surinder Suri vs. State of Haryana and others, 1996(2) R.C.R. (Criminal) 701** and **Usha Bala vs. State of Punjab, 2002(3) R.C.R. (Criminal) 445** contended that keeping in view the strained relations of the petitioner with the college management, the alleged threat given by the petitioner cannot be believed that the complainant felt intimidated by mere words without use of any weapon or show of criminal force by the petitioner. Petitioner was not shown armed with any weapon at the time of making threat, therefore, the FIR is proved to be *mala fide*. FIR under Section 506 IPC is liable to be quashed when there is no use of force by the

accused and the parties were having strained relations and were under litigation. The FIR needs to be quashed being offshoot of litigation spree. The dominant purpose in lodging the FIR was *mala fide* and in view of ratio of **M/s Neelam Mahajan Singh vs. Commissioner of Police and others, 1994(2) CLR 181**, the FIR needs to be quashed in extra ordinary inherent jurisdiction of the High Court. Empty threats did not make out a case under Section 506 IPC. Empty threats without mens rea to cause injury would not amount to an offence under Section 506 IPC.

[8]. On the other hand, learned counsel for respondent No.2 opposed the arguments of learned counsel for the petitioner on the ground that the act and conduct of the petitioner was sufficient to prosecute him for the offence under Section 506 IPC.

[9]. I have considered the submissions made by learned counsel for the parties.

[10]. Evidently, due to contested litigation between the petitioner and college management, the parties were having strained relations. Petitioner was empty handed at the time of alleged incident. Mere empty threat by mere words would not constitute an offence of criminal intimidation punishable under

Section 506 IPC. The ratio of Usha Bala and Surinder Suri's cases (supra) fully applies to the instant case. Prosecution of the petitioner pursuant to the FIR in question would, therefore, be an abuse of process of law and the same is required to be prevented by exercise of inherent powers under Section 482 Cr.P.C as the same would result in preventing miscarriage of justice.

[11]. In view of above, this petition is allowed. Consequently, FIR No.289 dated 18.12.2012 registered under Section 506 IPC at Police Station Dadri City, District Bhiwani and entire subsequent proceedings, if any, undertaken in pursuance thereof are hereby quashed.

January 16, 2018

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No