

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No.M-7861 of 2014 (O&M)

Date of decision : 10.07.2018

Asha Bharti

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. H.C.Arora, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(Oral)

The instant petition has been filed under Section 482 Cr.P.C.
for quashing of calender dated 30.07.2007 filed by the police under Section
182 IPC against the petitioner.

Before proceeding further, this Court would like to give brief
resume of the factual scenario.

Petitioner Smt. Asha Bharti had preferred a complaint under
Sections 3, 4, 5, 6 and 7 of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act (in short 'the Act') and Sections 341, 323,
354, 307, 363, 506 read with Section 34 IPC at Police Station Sadar,
Patiala. In the said complaint, Gurdev Singh, Sadha Singh and Hira Singh
were summoned as accused to face trial under Section 3 of the Act and also
under Sections 341, 323, 506 read with Section 34 IPC vide impugned
order dated 19.10.2012, passed by the learned Judicial Magistrate Ist Class,
Patiala. However, prior to it, the police found that the allegations in the

application/complaint moved by petitioner-complainant to the police against the respondents are false, therefore, proceedings under Section 182 Cr.P.C. were initiated against her and the case was committed. In aforesaid complaint case, after trial, respondent Nos.2 and 3 Gurdev Singh and Sadha Singh and co-accused Hira Singh were acquitted by the learned Addl. Sessions Judge, Patiala, vide impugned order dated 03.07.2014. The said order of acquittal was assailed by the present petitioner by filing Criminal Misc.No.A-523-MA of 2015 which was also dismissed by the Co-ordinate Bench of this Court while observing as under:-

“The perusal of the findings given by the Court below shows that learned trial Court has appreciated the evidence in right perspective. In no way, the findings can be held as perverse. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Court below.

In view of the above discussion, I find that the impugned judgment dated 03.07.2014 passed by learned Addl. Sessions Judge, Patiala is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and, therefore, the present application stands dismissed.”

The complaint submitted to the police was found to be false, therefore, proceedings under Section 182 Cr.P.C. were initiated against the petitioner.

On examining the material on the record, this Court is of the view that prima facie a case is made out against the petitioner.

The Hon'ble Supreme Court in *State of Haryana and others versus Ch. Bhajan Lal Ors. 1992 AIR (Supreme Court) 604* has made the following observations:-

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- 1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.*
- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by*

a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

5. *Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
7. *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

Keeping in view the entire facts and circumstances of this case, this Court is of the opinion that no case is made out to quash the kalandra dated 30.07.2007 filed by the police against the petitioner under Section 182 IPC. However, nothing stated above shall affect the merits of the case.

Therefore, the instant petition is without any merit and is hereby dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

10.07.2018

mamta-M

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No