

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

CRM No.M-12365 of 2015 (O&M)

Date of Decision: May 07, 2019

Shakuntla and others

...Petitioners

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Puja Chopra, Advocate
for the petitioners.

Mr.Sharad Kumar Yadav, DAG, Haryana
for the respondent-State.

Mr.Chanderhas Yadav, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.542/23.10.2013 titled as 'Dharamveer vs. Saurabh and others' pending before the Court of learned Judicial Magistrate Ist Class, Jhajjar, along with all subsequent and consequent proceedings including the order dated 10.12.2014 passed by said Court.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

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

From the record, I find that complainant Dharamveer filed the

complaint against Saurabh and other accused under Section 200 Cr.P.C.

The brief contents of the complaint as noted down in the impugned order

dated 10.12.2014 passed by learned JMIC, Jhajjar, are as under:-

“Brief facts of the complaint are that daughter in law of complainant is resident of village Nayagaon in Distt. Jhajjar and was appointed as Anganwari worker on 30.5.2011 against Anganwari Centre situated at village Nayagaon. It is further submitted that Child Development Project Officer, Jhajjar and Programme Officer, Women Child Development without considering the fact that this is non transferrable post, had transferred the daughter-in-law of the complainant to Anganwari Centre, Khajpur. The daughter-in-law of the complainant filed a detailed representation before the Director General, Women and Child Development Departmental, Haryana, Chandigarh and in response to that the Director General vide its order dated 23.05.2013 had clearly stated that the post is a non transferrable post and the daughter-in-law of the complainant cannot be transferred from Nayagaon to Khajpur.

2. It is further submitted that despite the order dated 23.05.2013 of Director General, Child Development Project Officer, Jhajjar and Programme Officer, Women and Child Development, Jhajjar have forcibly got done the work as worker at Anganwari Centre Khajpur by the daughter-in-law of the complainant. The accused persons 1 and 3 to 6 in connivance with Child Development Project Officer, Jhajjar and Programme Officer, Women and Child Development, Jhajjar, have taken possession in illegally and forcibly over Anganwari Centre Nayagaon by locking the same and the accused persons No.1 and 3 to 6 are preventing daughter-in-law of the complainant from doing work at Anganwari Centre Nayagaon. On dated 10.10.2013 the daughter-in-law of the complainant had also moved application to Police against the accused persons No.1 and 3 to 6, but the police has not taken any action against the accused persons.

3. It is further submitted that on dated 11.10.2013 at about 6.30 p.m. the complainant was returning back to his home from his fields carrying Mullet with him on the motorcycle, outside the village Nayagaon, then accused No.1 blocked the way of the complainant by standing his scooty in front of the motorcycle of the complainant and shouted, 'come down from the motorcycle, I will kill you'. When the complainant tried to make understand the accused No.1, then he called the accused No.2 and 3 at the spot by making telephonic call to them and the accused No.2 and 3 also administered the threat of killing

to the complainant. The complainant went on into his home. After about an hour of the reaching of the complainant at his home, the accused persons No.3 to 5 armed with bamboo sticks (Lathi) came in front of the home of the complainant in the street and the accused person No.6 was also with them. The accused persons No.3 to 6 shouted in the street and challenged the complainant to come out from the house and administered the threat of killing to the complainant. The complainant tried to contact with the Police on 100 number but could not succeed to do so. The accused persons No.3 to 6 after making a noise for 10-15 minutes went away from the spot.”

The complainant examined CW-1 Vinod, CW-2 Amit Kumar and himself appeared as CW-3 and tendered appointment letter of Suman Ex.C1, Director General Women Haryana, direction order Ex.C2, application given by Suman to police Ex.C3, registered post request letter Ex.C4 and postal receipt Ex.C5.

Learned JMIC, Jhajjar, passed the following order dated 10.12.2014:-

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“7. After hearing the learned counsel for the complainant and going through the documentary evidence and oral evidence, I am of the view that a prima-facie case under Section 341, 506 and 34 of Indian Penal Code, is made out against the accused. Therefore, the accused be summoned under Sections 341, 506 and 34 of the Indian Penal Code for 29.01.2015 on filing of PF, copy of complaint etc.”

The perusal of the complaint itself shows that it has been filed only to harass the accused. Though, allegations are levelled against Shakuntla, who is also an Anganwari worker along with daughter-in-law of the complainant but she has no concern with the transfer of daughter-in-law of the complainant. The orders were passed regarding transfer by the higher authorities and they are not the accused. There is also nothing in the complaint to say that the officers, who transferred daughter-in-law of the

complainant, are in any way influenced or connived with the accused. Secondly, as admitted, litigations are pending between the parties due to which the complaint in question has been filed.

As per the complainant, accused No.1 stopped him while going on the motorcycle and then he called accused No.2 and 3. Thereafter, accused No.3 to 5 armed with bamboo sticks came in front of house of the complainant. As per the complaint, even a slap has not been given to the complainant. The accused persons were called at the spot, who were armed with sticks but they have not done any overt act to carry out the threat to kill. Except assertion in the complaint that they have given threat to kill the complainant, there is nothing. Furthermore, statement of CW-1 Vinod also shows that accused were outside the house of Dharamveer and shouted loudly that Dharamveer should come out of the house and they will kill him. Nothing more has been shown to show any overt act to carry out the threat. CW-2 Amit Kumar, in preliminary evidence, stated that he saw accused Saurabh, who was threatening Dharamveer of his life by stopping him and he also misbehaved with the complainant and threatening him due to the matter in the Court. As per this witness, he intervened between them and went away. He also stated that nobody came out from the house of Dharamveer when accused came to his house.

Keeping in view the contents of the complaint and the preliminary evidence, I find that even, commission of any offence, is not made out. There is nothing in the complaint and it has been filed only to harass the accused and filing of the present complaint, is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is

allowed. Criminal complaint No.542/23.10.2013 titled as 'Dharamveer vs. Saurabh and others', summoning order dated 10.12.2014 and all subsequent proceedings arising therefrom, are hereby quashed.

May 07, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No