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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SANJIV KUMAR SHARMA
2019.11.21 10:29
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authenticity of this document

CRM-M-39580-2019
Date of decision : 19.11.2019

Vishu Phogat

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. G.S. Sandhu, Advocate
for petitioner.

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HARINDER SINGH SIDHU, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of order dated 21.10.2016 (Annexure-P-6), passed by learned Chief Judicial Magistrate, Panipat, vide which application filed by petitioner under Section 239 Cr.P.C. was dismissed, order dated 21.10.2016 (Annexure-P-8) of the same Court, vide which application filed by petitioner under Section 91 Cr.P.C. was dismissed, order dated 21.10.2016 (Annexure-P-9) of the said Court, vide which petitioner was chargesheeted under Sections 186, 332, 353, 500, 506 IPC. Challenge is also to the judgment dated 25.7.2019 (Annexure-P-11), passed by learned Additional Sessions Judge, Panipat, vide which revision against aforesaid three orders was dismissed.

The allegations are that on 17.8.2015, ASI Ranbir Singh was deputed in RTI Cell, SP Office, Panipat. At about 12.30 PM, petitioner came to his office and stated that though she had moved a number of applications under the Right to Information Act, but she was not given correct reply intentionally. Complainant replied that as and when her RTI application is received, reply will be furnished. On complainant saying so, petitioner became annoyed and started abusing him. She picked up one file

from Government records which was lying on table and threw it at complainant which hit him on his stomach due to which he felt pain in his stomach. The complainant was already suffering from kidney disease. On hearing petitioner shouting and abusing, SI Rekha, Incharge Women Cell, ASI Mohan Lal, Incharge Complaint Branch and other officials came there. They tried to calm down Vishu Phogat (petitioner), but she kept on abusing the complainant. She used filthy language against entire police force. While leaving, she threatened the complainant that she will get him implicated for such an offence because of which he would have to suffer loss of job. Complainant alleged that earlier also, petitioner abused him by visiting his office, but it was tolerated because she is a woman.

The matter was investigated and report under Section 173 Cr.P.C. was filed. Thereafter, an application was filed by petitioner under Section 239 Cr.P.C. for discharging her. She also filed an application under Section 91 Cr.P.C. for summoning of Record Keeper/Nodal Officer of Idea Mobile Company Limited. Application filed under Section 239 Cr.P.C. was dismissed by trial Court, vide order dated 21.10.2016 and charges under Sections 186, 332, 353, 500, 506 IPC were framed against petitioner. Application filed under Section 91 Cr.P.C. was also dismissed by trial Court, vide order dated 21.10.2016 by observing that at the time of arguments, accused has no right to summon witnesses.

Petitioner preferred revision petition before learned Additional Sessions Judge, Panipat, in which she assailed all three orders. The revision has been dismissed by learned Additional Sessions Judge, Panipat, vide order dated 25.7.2019.

After referring to the provisions of Sections 239 and 240 Cr.P.C., the Court concluded that accused can be discharged if Court considers the charge against accused is groundless, but if there are grounds for presuming that accused has committed offence, Court can frame the charge. The allegations against petitioner are of abusing and throwing a file at ASI Ranbir Singh causing pain to him and obstructing him in discharge of official duties. There were sufficient grounds before trial Court for framing charges against petitioner. The application under Section 91 Cr.P.C. was also rightly dismissed by trial Court as it was not maintainable at that stage.

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There is no illegality in impugned orders of Courts below.

Thus, the petition is dismissed.

(HARINDER SINGH SIDHU)
JUDGE

19.11.2019

sjks

Whether reasoned order : Yes / No

Whether reportable : Yes / No