

130

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-10355-2020
Date of Decision: 16.03.2020

Mrs. Vijay Lata

..... Petitioner

Versus

Sh. Rajiv Arora

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mrs. Vijay Lata, Petitioner in person.

SUDIP AHLUWALIA, J. (ORAL)

[1]. This is a petition under Section 340 read with Section 195(1)(b) of the Criminal Procedure Code, seeking prosecution of the respondent (Ex. Registrar, Kurukshetra University, Kurukshetra) for knowingly having filed a false Affidavit in CWP No.1986 of 1993.

[2]. The Court has heard the petitioner appearing in person and has also gone through the entire available material on record. It transpires that the present petition has been filed for the 4th time by the petitioner seeking the same relief. She had lastly filed a similar Criminal Misc. No.M-48956 of 2018, which was decided by a co-ordinate Bench of this Court on 07.12.2019, vide order Annexure P-25. The entire background and history of previous litigations at the instance of the petitioner leading upto the aforesaid CRM No.M-48956 of 2018, has been meticulously noted in the final order passed by the co-ordinate Bench. The same is set out as below:-

“Amol Rattan Singh, J. (Oral)

By this petition, which was originally presented

“as Criminal Writ Petition in Civil Writ Petition No.1986

of 1993”, the petitioner has termed it in the summary prayer (at the beginning of the petition) as an “application under Section 340 of Criminal Procedure Code”, seeking that charges for knowingly filing a false affidavit in CWP No.1986 of 1993 (be framed) against the respondent, on the ground that the overall performance report of the petitioner has been shown to be poor, in the written statement filed to the aforesaid Civil Writ Petition no.1986 of 1993, at the time that he respondent was the Registrar of the Kurukshetra University (that written statement having been filed in March, 1993).

The contention is that it was on account of that 'false written statement filed', the writ petition was dismissed, by which the petitioner had challenged her discontinuation/termination as a Lecturer in the said University.

At this point of time it is not considered necessary to give the details of that petition, except to the extent that the said petition having been dismissed by a Division Bench of this Court on 19.3.1993, a review of that order was sought, which again was dismissed on 2.4.1993, after which the petitioner filed SLP No.9303 of 1993, which was dismissed by the Supreme Court on 10.8.1993.

Thereafter, she filed Civil Suit No.186 of 1994, seeking a decree of declaration and a consequential decree of mandatory injunction, to the effect that her services should not have been terminated and that she be reinstated, challenging therein also the appointment of one Naresh Kumar in her place. That civil suit having been dismissed, the appeal filed against that was withdrawn on 19.12.1997, with permission granted to her to file a fresh civil suit. That suit was also subsequently dismissed, with the appeal filed against that judgment and order also having been dismissed on 14.5.2002.

Thereafter, she instituted a complaint under the provisions of Section 340 of Cr.P.C. before learned Chief Judicial Magistrate, Kurukshetra, which was dismissed on 26.5.2007 essentially holding therein that since the alleged perjury committed was before the High Court, the CJM would have no jurisdiction to entertain the complaint.

She having filed an appeal (CRA-S-1376-SB-2007) against that order, it was stated to have been withdrawn by her on March 26, 2008. Thereafter, she filed "Criminal Miscellaneous No. M-46849 of 2007 in CWP No.1986 of 1993," which came up before a coordinate Bench of this court and was dismissed on September 27, 2010. That order reads to say (in the initial part thereof) as follows: -

"The present petition has been filed under Section 340 Cr.P.C. with a prayer that the respondents be tried, convicted and sentenced for filing, willfully a false affidavit in Civil Writ Petition No.1986 of 1993 in which poor performance of the petitioner was averred as a reason to dispense with her services. It is stated that filing of false affidavit amounted to cheating and defamation for charges under Sections 193, 204, 420, 468, 500 read with Section 34 IPC."

Thus, though that petition was shown to be filed "in CWP-1986-1993", effectively, it was a complaint/application/petition filed under the provisions of Section 340 of the Cr.P.C., with her grievance being (as stated in that order) that she had been recruited as a Lecturer in the Kurukshetra University against a leave vacancy, with her services illegally terminated, and in the writ petition filed by her, challenging such discontinuation/termination, a wrong affidavit was filed

by the University.

While dismissing the petition, it was observed by this Court as follows : -

“This Court is of the view that during the course of litigation, litigants do not always take recourse to the truth. Sometime false affidavits indeed are submitted. Sometimes they are presumed to be false. The offence of purgery or filing of a wrong affidavit is an offence against the Court. It is well settled maxim that Courts will not act to satisfy the feeling of revenge of any litigant. When the conscious of Court is pricked and it arrives at a finding that due to filing of wrong affidavit, administration of justice has failed, then the Court to uphold the majesty of law do act. For each and every averment made wrongly, the litigant is not to be taken to task, especially when the affidavit so relied has been taken into consideration by the Hon'ble Apex Court to dismiss the Special Leave Petition. Thus, this Court cannot come to the rescue of the petitioner.

Hence, the present petition is dismissed.”

Still not satisfied, she thereafter filed a petition bearing no.CRM-M-32437-2010, which again came up for hearing before a coordinate Bench, with the opening paragraph of the order passed in that petition, on 12.7.2011, reading as follows : -

“This is petition under Section 340 read with 482 of the Code of Criminal Procedure (in short Cr. P.C.) for granting sanction for prosecution of the respondents for offences under Sections 193, 204, 420, 468 and 500 read with Section 34 of IPC.”

Thus, again, jurisdiction under Section 340 of the Cr.P.C. had been invoked by her, with the grievance of the petitioner in that petition, as noticed by the court in that order, again reproduced as follows:-

“Grievance of the petitioner is that respondent No.2 filed false affidavit in reply to the aforesaid writ petition resulting in dismissal of the writ petition. It is thus alleged that respondents committed the aforesaid offences by filing false affidavit. The petitioner had filed criminal complaint No.231 of 2003 before Chief Judicial Magistrate but the said criminal complaint stands dismissed for want of sanction under Section 340 Cr.P.C. Accordingly, the petitioner has approached this Court by way of instant petition.”

While noticing that earlier CRM-M-46849 of 2007 had already been dismissed, and that earlier a writ petition and an SLP also had been dismissed, the said petition, i.e. CRM-M-32437-2010, was also dismissed.

As per the petitioner (on query to her by this court), no appeal/special leave petition was filed against the dismissal of those two petitions.

Thereafter still, the petitioner filed a complaint in the court of the learned Special Judge appointed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on 21.3.2017, alleging therein that despite the Executive Council of the Kurukshetra University having approved in its meeting, held on 25.1.1991, that she be appointed as a Lecturer in the Department of Psychology in the said University, her services had been terminated, intentionally and dishonestly, by violating the rules of the University, without giving any notice to her and therefore, since she belongs to a scheduled caste, an offence punishable

under the said provisions had been committed.

That complaint was dismissed by that court on 7.8.2018, against which, again admittedly, (as per the petitioner, who is present in person in Court), no appeal has been filed. Thereafter, this petition has been filed, which as already noticed, in the headnote has been given the nomenclature of an “application under Section 340 of the Criminal Procedure Code”.

It is to be first of all noticed that in fact other than the orders passed by the Division Bench in CWP No.1986 of 1993 on 19.3.1993, in the review application on 2.4.1993 and by the Supreme Court dismissing her SLP on 10.8.1993, no other orders passed by different courts in different petitions/suits/complaints/applications filed by the petitioner, have actually been annexed by her with this petition.

When the petition had initially come up for hearing on 12.11.2018, the petitioner had appeared in person and notice of motion was issued by a coordinate Bench, returnable at that stage on 17.12.2018, pursuant to which the respondent put in appearance through counsel, after which a reply to the petition was filed with the matter thereafter getting adjourned from time to time. On 12.9.2019 the petitioner appeared in person again, but with learned counsel for the respondent not being present on that day, the following order was passed:-

“The petitioner has appeared in Court and has referred to the order of the Division Bench of this Court, dated March 1993, passed in CWP No.1986 of 1993 (copy Annexure P9), to submit that in the written statement filed by the respondent in that case, a false stand had been taken, to the effect that the petitioners' performance as a Lecturer being poor, it was decided that her services would not be

regularized, and instead they were terminated. She submits that she came to know of the written statement was filed, only in the year 1998, after which she approached the civil court also, and initiated other proceedings, in which different orders were passed.

The grievance of the petitioner being 25 years old and she obviously not being well versed with legal procedure, Mr. P.S. Sekhon, Advocate, who is present in Court, is requested to assist this Court as Amicus Curiae, with the matter adjourned to 04.10.2019.”

Thus with this Court unable to understand the complete grievance of the petitioner as she wished to present it, Mr. Sekhon had been asked to assist this court as Amicus Curiae. In fact it is he who has thereafter (obviously with the cooperation extended by the petitioner), taken the trouble of obtaining all the orders passed in previous litigation by the petitioner, uptill the filing of this petition, which orders he has produced today in court by way of a compendium, which is ordered to be taken on record as Annexure P-25 (collectively) with the petition, with it to be noticed by this Court that as a matter of fact information of the litigation earlier entered into by the petitioner, in the context of her grievance as is contained in the present petition, should correctly have been brought to the notice of this court in this petition itself, by annexing those orders alongwith.

Be that as it may, no matter what the grievance of the petitioner may be, I would not be able to even go into the merits thereof, with two coordinate Benches already having gone into the matter, in the two petitions filed earlier by her, also invoking jurisdiction under Section 340 of the Cr.P.C., with no merit having been found in those contentions, and the petitions having been

dismissed.

Consequently, the essential grievance of the petitioner in this petition being that the writ petition initially filed by her, i.e. CWP No.1986 of 1993, having been dismissed on account of a false written statement having been filed in court, and of course in addition she stating (in this petition) that the report on her poor performance was deliberately obtained only so that her services would not be regularized, yet the writ petition itself having been dismissed, with the SLP filed against that order also having been dismissed, and her grievance as regards any false written statement/affidavit etc. having been dismissed upon her invoking jurisdiction under Section 340 of the Cr.P.C. twice earlier too, this petition is held to be not maintainable before this court and is consequently dismissed.

No costs are being imposed upon the petitioner, simply keeping in view the fact that she has appeared in person and is obviously harassing herself also enough, time and again.

Even having dismissed the petition on the ground of it not being maintainable, it being the 3rd petition filed on the same cause of action, the basic argument raised by the petitioner, as also learned Amicus Curiae, needs to be noticed, to the effect that the petitioner having an excellent academic record, having stood first in Master of Arts in Psychology, with an additional qualification of Bachelor of Education from the Rohilkhand University, had been appointed as a Lecturer against a leave vacancy on 06.02.1991, with her having continued on the said post till the letter issued by the University on 02.02.1993, stating that her services no longer required.

The contention is that with her academic background, there was no question of her having a poor performance as a Lecturer, and that the report in that

regard was deliberately obtained by the respondent in his capacity as a Registrar, from one Professor Amir Singh, only to accommodate another person in the job.

As already held hereinabove, that aspect I cannot even begin go into, with the history of the previous litigation of the petitioner being as it is, two petitions, also invoking jurisdiction under Section 340 of the Cr.P.C., already having dismissed by co-ordinate Benches, (though the 'nomenclature' of these petitions may otherwise have been slightly different).

Before parting with this order, the strenuous efforts obviously put in by Mr. P.S. Sekhon, Advocate, learned Amicus Curiae, in assisting this court, especially by obtaining all orders and relevant documents of all previous litigation (as had not been annexed with this petition), are to be highly appreciated, with the gratitude of the court recorded.”

[3]. It would, therefore, appear that the present petition seeking the same relief which was rejected on merits by the co-ordinate Bench vide its aforesaid detailed order, is *per se* not maintainable. Faced with this, the petitioner has drawn attention of the Court to a subsequent order passed by the same co-ordinate Bench in disposing off her separate application bearing CRM No.3392 of 2020, on which the following order was passed:-

“By this application, the petitioner seeks to invoke the jurisdiction of this court under the provisions of Section 482 of the Cr.P.C. At the outset, upon this court having informed the petitioner that this application would not be entertainable, in view of the fact that I had already dismissed her petition earlier, on 07.12.2019, she seeks to withdraw this application, with it made absolutely clear to her that if she wishes to argue the application on merits and wants this court to pass an order dismissing it on merits, it can be done, but

thereafter she still wishes to withdraw this application.

Dismissed as withdrawn.

(Emphasis added)

31.01.2020

(AMOL RATTAN SINGH)
JUDGE”

[4]. It is, therefore, clear that by having sought to withdraw a petition which had already been dismissed on merits by the co-ordinate Bench way-back on 07.12.2019, and, which order of dismissal had also been uploaded on the High Court's website, the petitioner tried to seek a clever way-out of dismissal order by withdrawing the previous petition. But, there cannot be withdrawal of a petition, once her earlier petition had been already dismissed on merits, much less on an application for that purpose filed and decided almost two months later, when the concerned Bench, first of all, did not recall the previous order of dismissal. In fact from the emphasized portion of the aforesaid order dated 31.01.2020, it is clear that only the petitioner's subsequent application bearing CRM No.3392 of 2020, was dismissed as withdrawn on her choice as the co-ordinate Bench had made it crystal clear that in any event, it was liable to be dismissed on merits. The original judgment dismissing the petitioner's last CRM No.M-48956 of 2018, vide the detailed order passed on 07.12.2019, in the circumstances remains intact and fully operative, on account of which, the present petition seeking the same relief is not tenable.

[5]. In such circumstances, the present petition is found to be manifestly non-maintainable. The petitioner, on the other hand, would appear to be liable for being penalized for wasting the precious judicial hours of this Court on such a flimsy petition. But, she is let off this time, in view of the fact that, firstly, she is a woman, and secondly, she is presumed

to be not well-versed with the intricacies of the procedural law. She would be well advised to file her next round of litigation only by engaging some competent professional for that purpose, if she so chooses.

16.03.2020

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No