

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-4381-2022

Date of Decision: August 03, 2022

Murti Devi

.... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Susheel Gautam, Advocate,
for the petitioner.

Vivek Puri, J.

The petitioner has assailed the order dated 12.08.2021 (Annexure P-4) passed by the Court of learned Additional Sessions Judge, Panipat, vide which the application for issuance of directions to the police to register the FIR has been dismissed.

I have heard learned counsel for the petitioner and perused the record.

The petitioner has alleged that she belongs to Scheduled Caste and on 21.08.2020 at about 10 A.M., the respondent no.2 came to her house, threatened her that in case her son Ravi Kumar does not withdraw the case, she

and her family would be killed. When the petitioner opposed, the respondent no.2 pointed a pistol towards her, gave slaps and punches, pushed her to the ground and brought her in the street. The respondent no.2 uttered derogatory remarks against the caste of the petitioner in the presence of 5-6 persons, tore her shirt and fled away.

It is significant to note that at the earlier instance, the petitioner had filed a petition i.e. CRWP-10008-2020 in this Court for issuance of writ of mandamus and directing the respondents therein to ensure her safety and protection from the hands of the private respondents. The petition was disposed of vide order dated 06.07.2021 (Annexure P-5) and liberty was granted to the petitioner to file a complaint before the competent Court of law, if so advised.

In such circumstances, the petitioner was given liberty and advised to file a complaint before a competent Court of law.

However, instead of submitting any complaint, she has moved an application for issuance of directions to the police to take legal action on the basis of the application dated 21.08.2020 submitted by the petitioner to the officer in charge, Police Station Model Town, Panipat.

The application has been disposed of by the learned Court below by making following observations:-

“5. There is a caste certificate of applicant on the case file which shows that she belonged to a scheduled caste. She had been moving applications to the police and had also filed a writ petition in the Hon’ble High Court with request to take action against respondent but FIR was not lodged by the police and Hon’ble High Court had disposed of her writ petition after granting her liberty to file a complaint before competent Court of law. Instead of filing a complaint, she has again sought direction for registration of case against the respondent. Recently, Hon’ble Supreme Court of India had observed in a case that “automatic registration of FIR and arrest in complaints under the Act should be avoided. It stressed that law should not be result in hatred towards a caste and there is a need for safeguards against registration of FIR and arrest under the Act in view of instances of misuse and to protect the liberty of others. It further observed that the Act cannot be converted into a charter for exploitation or oppression by any unscrupulous person or by the police for extraneous reasons against other citizens. It is mandatory for the police to conduct a preliminary inquiry to decide whether an FIR deserves to be registered under the parameters of Atrocities Act.”

6. When applicant had approached Hon’ble High Court, Hon’ble High Court had called the DSP concerned, who had filed affidavit to the effect that on receipt of complaint of the

applicant against the accused, he had conducted an inquiry and called both the parties to record their respective statements and as per the statement of Ravi, son of the applicant, he was working as a labourer in the house of respondent-Karambir and during performance of Labour work, he had suffered injury due to fall by imbalance and he was given proper treatment by Karambir. He further stated in that affidavit that the applicant had appeared in the proceedings in the inquiry but she refused to make any statement. This clearly shows that the police had already investigated the matter and found that the FIR is not required to be lodged. Even otherwise, if the allegations in the complaint are treated to be true, no further investigation is required to be carried out in the case and hence registration of FIR is not required. The applicant may proceed with the matter in a private complaint and if she succeeds in proving her allegations, the respondent can very well be summoned to face trial and may be convicted for the offence allegedly committed by him.”

The perusal of the aforesaid observation makes it amply clear that the police has already investigated the matter and found that the FIR is not required to be lodged. The learned Court below has also observed that the applicant may proceed with the matter in a private complaint and if she succeeds in proving her allegations, the

respondent can very well be summoned to face trial for the offence alleged to have been committed by him. While dismissing the application, the liberty has also been granted to the petitioner to proceed with the application, which can be treated as a complaint and can lead preliminary evidence in the case or she may file a separate private complaint against the respondent. However, the petitioner has made a statement that she does not want to lead any preliminary evidence. Consequently, the application was consigned to record room.

It may also be mentioned here that during the course of proceedings in CRWP-10008-2020, it has been observed that an inquiry in the matter was initiated before the police wherein the respondent no.2 had appeared, but the petitioner refused to make any statement. Accordingly, the petition was disposed of with liberty to the petitioner to file a complaint before the competent Court of law, if so advised.

In these circumstances, no illegality, irregularity or infirmity is made out passed by the Court below, which may call for interference by this Court. The petitioner was given liberty to proceed with the matter as a complaint, advised to lead preliminary evidence, but she refused to avail such remedy.

In these set of circumstances, instant petition being devoid of merit, is dismissed.

August 03, 2022
vkd

(Vivek Puri)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No