

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47261-2017 (O&M)
Date of decision: 04.03.2022

Balwinder Kaur

... Petitioner

Vs.

Harpreet Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. T.P. Singh, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the orders dated 02.12.2016 (Annexure P-3) and the order dated 12.04.2017 (Annexure P-3) passed by both the Courts below, vide which complaint filed by the petitioner to summon the respondents under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SC&ST Act') read with Sections 499 & 506 of the Indian Penal Code (for short 'IPC'), was dismissed.

Vide order dated 02.12.2016, the trial Court, while dismissing the complaint, recorded a finding that as per preliminary evidence led by the complainant/petitioner, no case for malicious prosecution as well as under

Section 3 of SC&ST Act is made out. Thereafter, the petitioner preferred a revision petition before the Court of Sessions and the same was also dismissed vide order dated 12.04.2017. The revisional Court recorded a finding that there is no iota of evidence that by registering an FIR against the petitioner, how the respondents-accused have caused any mental agony, harassment and injuries on her reputation in the society. The operative part of the order dated 12.04.2017 reads as under: -

“...I have heard the learned counsel for the petitioner and learned counsel for the respondents and have gone through the record of the case carefully.

Perusal of the record reveals that basis of the case is FIR No.258 dated 11.09.2012 under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, P.S. City Sangrur, wherein the accused in that FIR, namely, Balwinder Kaur, who is the revisionist in this case, was acquitted by the Court of Shri B.B.S. Teji, learned Additional Sessions Judge, Sangrur vide judgment dated 23.12.2015. From the perusal of the judgment it is abundantly clear that the complainant was acquitted in that case for the lack of evidence produced by the prosecution and so benefit of doubt was given to her and there is no finding with regard to the fact that it is a case of malicious prosecution. In fact from the perusal of judicial file it seem that before lodging of the FIR two inquiries were conducted by the investigating agency and thereafter, the FIR in question was lodged. So, it cannot be said

that the proceedings initiated against the revisionist in FIR No.258 dated 11.09.2012 were vague, fictitious with malafide intention to harass the revisionist, but were found on sound principles. The very ingredient of malicious prosecution is missing in the present case. From perusal of the preliminary evidence of the complainant, she has stepped into witness box herself and has reiterated the submissions mentioned in the complaint. The second witness examined by her is Jaswinder Kaur, who is the daughter of the complainant. Thereafter, after exhibiting the documents, the complainant closed her evidence. It is pertinent to mention here that the complainant has not examined any independent witness in order to substantiate her allegation that her reputation has been lowered in the eyes of the public at large or her colleagues, relatives or neighbours.

From the aforesaid discussion, I am of the opinion that there is not an iota of evidence to show that by lodging of the FIR against the revisionist by the respondent No.1/accused how the revisionist suffered loss of mental agony, harassment and injuries on her reputation in the society, family members, relatives as well as in the department where she works as no witness to this effect has been examined by the revisionist. She is also miserably failed to show that on what account she is entitled to claim Rs.15 lac as compensation regarding loss of her reputation, harassment and mental agony. So, under such circumstances, I find no illegality in

the impugned order. The revision petition having been filed by the revisionist is dismissed being devoid of any merit. Trial court record along with copy of this judgment be sent back forthwith. Revision file be consigned to the record room.”

Learned counsel for the petitioner could not make out any legal submissions to point out that both the Courts below have erred in exercising the power in not summoning the respondents-accused to face the trial.

In view of the above, I find no ground to interfere in the findings recorded by both the Courts below.

Accordingly, the present petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

04.03.2022
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No