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

CRM-M-31088-2022
Decided on : 11.04.2023

Manoj Kumar

..... Petitioner

Versus

Hamid Hussain and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mohit Sadana, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner is impugning the order dated 11.07.2019 (Annexure P-3) passed by Addl. Sessions Judge, Ambala vide which his protest petition against the cancellation report submitted by the prosecution in case FIR No.169 dated 12.05.2008 was dismissed.

As per the allegations levelled by the petitioner-complainant against the respondents-accused, he had been working in Haryana Wakf Board since 2001 and belonged to the Scheduled Caste community. He was being continuously harassed by the respondents-accused including the one Hamid Hussain, Chairman, Haryana Wakf Board. On 01.09.2004, he was transferred to the residence of respondent No.1 at Nuh where yet again he was ill-treated and subjected to casteist remarks. On 28.02.2005, the petitioner-complainant was dismissed from service where upon he complained to the higher authorities. On being called to the office of the Wakf Board at Ambala after about 10 months and was pressurized to give an affidavit with regard to the withdrawal of his

complaint and an undertaking that he would not file any complaint against any of the officials. Subsequent to the aforementioned undertaking given by the complainant, he was reinstated in service, however, the respondents-accused continued to humiliate and harass him. It was alleged that the harassment was meted out to him by the respondents only on account of the fact that he belonged to the SC category.

Learned counsel for the petitioner *inter alia* contends that both the Courts below gravely erred in failing to appreciate oral as well as documentary evidence, which were led by him to substantiate the allegations levelled in the complaint in question. Hence, the impugned order dated 11.07.2019 and 17.10.2016 (Annexures P-3 and P-2 respectively) deserved to be set aside.

Heard learned counsel and perused the relevant material available on record.

No doubt, at the stage of summoning only a *prima facie* satisfaction has to be derived by the trial Court as to whether commission of alleged offence is made out or not, however, it is only on the basis of preliminary evidence adduced that the order summoning the accused to face trial can be passed. Admittedly, in the case in hand, respondent No.1 Hamid Hussain against whom the complainant levelled allegations of gross maltreatment and indulging in casteist remarks, had expired.

Still further, the deposition of CW-4 Udey Singh, a resident of Rewari and in whose presence the complainant was allegedly subjected to humiliation and harassment etc. did not come across as being a trustworthy witness. Strangely, on the day of alleged occurrence, there was no entry in the Visitor's Register of the office of Wakf Board at Ambala pertaining to the arrival

of CW-4 Udey Singh. On being confronted, CW-4 Udey Singh submitted that he had been called by the complainant and it was outside the office that he and the complainant had met. In that eventuality, the version put forth by the complainant that CW-4 Udey Singh had come to the office of the Wakf Board for some personal work and witnessed the incident of complainant being threatened by the accused, stands belied. Not only this, there was no occasion for CW-4 Udey Singh to have visited the office of Wakf Board at Ambala as admittedly, there was no lease file pending in his name at either of the two offices Wakf Board, Rewari much less at Wakf Board, Ambala. Moreover, it is evident from the perusal of the allegations levelled in the complaint that totally vague allegations had been levelled qua the respondents-accused of having indulged in caste related utterances against the petitioner. In the absence of any cogent evidence, the Court below rightly passed the impugned orders.

As a sequel to the above, this Court does not find any ground to interfere in the impugned order passed by the Court below. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

11.04.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No