

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-2301-2019(O&M)

Date of order: 29.04.2024

Shashank Kumar Sawan

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.R.S. Cheema,Senior Advocate with
Mr. Sandeep Kang, Advocate
Mr. Satish Sharma, Advocate
Mr. Prince Barote, Advocate
for the petitioner.

Mr. Aditya Pal Singla, AAG Haryana.

Nidhi Gupta, J.

CRM-19710-2022

This is an application under Section 482 Cr.P.C. for placing on record Annexure P9 and Annexure P10.

After going through the contents of the application, which is supported by affidavit of the applicant/petitioner, the same is allowed subject to all just exceptions and Annexure P9 and P10 are taken on record.

MAIN CASE

Present petition under Section 482 Cr.P.C. is filed for setting aside of order dated 30.10.2018, passed by learned Additional Sessions Judge, Jhajjar (Annexure P7) in case FIR No.601 dated 23.09.2018

registered under Section 376 IPC and Section 6 of POCSO Act and Section 3 of SC/ST Act, at Police Station City Bahadurgarh (Annexure P1); and for expunction of statedly unwarranted and arbitrary remarks against the petitioner in the said order.

2. Learned Senior Counsel appearing for the petitioner inter alia submits that the brief sequence of events is as follows: –

22.09.2018: At 8.30 AM, offence of rape was committed against a 6-year-old child.

23.09.2018 (P1): FIR u/ss 376 IPC; 3 SC/ST Act & sec. 6 of POCSO Act was registered. Petitioner was assigned to be the investigating officer of the said case.

27.09.2018 (P2): Report u/s 173 Cr.P.C. was prepared.

29.09.2018: Challan presented; accused not produced; matter adjourned to 06.10.2018.

06.10.2018: As per the statement of Ld. Public Prosecutor, the matter fell within the jurisdiction of Addl. Sessions Judge- I – matter adjourned to 09.10.2018.

09.10.2018: Ld. ASJ ordered that the case be put up before Sessions Judge for transfer to the designated court for SC & ST offences.

10.10.2018: Reference from learned District and Sessions Judge received back. Matter adjourned to 23.10.2018.

23.10.2018: Accused produced virtually; matter adjourned to 30.10.2018, with a direction to supply copies of challan for hearing on charge.

25.10.2018 (P6): The petitioner made a representation dated 25.10.2018 to the District & Sessions Judge, Jhajjar regarding hearing of cases of offences against women and child in Fast Track Court. It is this communication which is allegedly objectionable and contentious representation.

30.10.2018: Impugned Order of ASJ commenting on conduct of the petitioner with allegations of creating pressure and influence over the court.

14.11.2018: It is noted by the concerned ASJ that she had made a reference to the High Court u/s 395 (2) Cr. PC - adjourned to **29.11.2018**, for awaiting the High Court orders.

26.11.2018: Case forwarded in the court of concerned ASJ. It is noted by her in the order of even date that the case stood transferred to ASJ-1; moreover, no response to the reference has been received.

29.11.2018: Ld. ASJ-I records that the High Court orders were still awaited.

06.08.2019/07.08.2019: The trial has since concluded. Vide judgment/order dt. 06.08.2019/07.08.2019 passed by the Id. ASJ, the accused stands convicted.

3. Ld. Senior Counsel appearing on behalf of the petitioner submits that vide the representation dated 24.10.2018 (Annexure P6), made by the petitioner to the District & Sessions Judge, Jhajjar, the petitioner had merely intimated how the case was registered and the investigation was concluded. It was noted that the trial had not started before the Court, even though trial was to be conducted in the Fast Track Court as per the instructions of the State Govt. (Annexure P3). Accordingly,

a prayer was made that the trial in the case be started at the earliest. It is submitted that a bare perusal of the representation shows that in the representation, there is no reference to any particular Court or the Presiding Officer. There is no critical reference to the Court in any manner, nor any aspersions have been cast. There is absolutely nothing objectionable in the contents of the letter except an anxiety for an expeditious trial.

4. Ld. Senior counsel submits that despite that, the impugned order dated 30.10.2018 (Annexure P7) was passed, wherein certain objectionable observations have been made against the petitioner. The Id. ASJ has noted at page 52, that the IO of A.S.P. rank had tried to create pressure and influence. It is again noted at Pg.53, that the petitioner had pressed hard for quick disposal of the case. It has been stated that the petitioner's Letter dated 25.10.2018, shows no exceptional circumstances for giving priority to a particular case. The special interest shown by the IO, casts doubt on his integrity - particularly because PP alone can conduct the prosecution. Ld. Senior counsel contends that it has been inferred without any justification that the IO had shown special interest in the case and therefore, doubts have been cast upon the integrity of the petitioner. In para 2 Pg. 53 again, it is repeated that the IO had approached the Sessions Judge through an application for quick disposal. Secondly, it is noted that the Court has a heavy roster. Thirdly, it is noted that special circumstances are required for Fast-tracking a particular case. At Pg.53-54, allegations regarding undue pressure and influence are repeated. Secondly, it is recorded that the course adopted by the IO was unwarranted and an attack

on the judiciary in the administration of justice. At Pg.54, it is noted that the petitioner's letter was an attack on the independence of judiciary which attracted initiation of proceedings under the Contempt of Courts Act which the court was empowered to entertain. Thereafter at Pg.54, the petitioner is warned to be careful in the future and directed not to interfere in court functioning which tantamount to contempt of court. It is further stated that failing the same, the matter shall be brought to the notice of this Court.

5. Ld. Senior counsel contends that the above-mentioned order is stigmatic on the face of it and proceeds with the assumption that the petitioner has committed contempt of court by filing an application seeking speedy disposal of the case. The above stated remarks/warning/observation is clearly and certainly a blot on the career of a young IPS officer on the threshold. The apparent import of the said order is that the petitioner had committed contempt of court and is being let off with a warning. It is obvious that the petitioner suffers a stigma on account of the contents of the said order. The same tantamount to casting a stigma on the service of the Investigating Officer who had fairly conducted the investigation in a sensitive case of this nature. The Ld. Judge has, without any basis, returned a finding that the integrity of the petitioner is doubtful. The said finding is based on no material whatsoever and is taken from air. The same is prejudicial and stigmatic on the face of it and particularly being no basis for the same, the same requires to be set aside.

6. Ld. Senior counsel argues that the object behind the said application was the fact that the girl of tender age of six years, who has to relive the most ghastly and unpleasant moments of her life during the

course of examination in chief and cross examination, does so at the earliest when the facts are fresh in her mind. The petitioner, in his wisdom, had thought that the judgment of the girl of tender age of six years can be clouded by peer pressure and outside influence with the passage of time and the same would not help the cause of imparting justice as enshrined under the law.

7. Ld. Senior Counsel further argues that another reason for according priority to the case was the State government notification dt. 24.07.2018 (Ann. P3) vide which State level and District Level committees were constituted for identifying cases requiring prompt investigation, close monitoring of prosecution and quick disposal. In this regard, Report of SP, Jhajjar was received regarding the proceedings of the district level committee (P4 Colly) wherein the present case figures at Sr. no.3. Thereafter, vide Annexure P8, the State and the Director General of Police affirmed the identification of the case for prompt disposal. In the Letter dt. 22.11.2018 by DGP, Haryana to SP, Jhajjar, the instant case is mentioned at Sr. No.2.

8. Ld. Senior counsel submits that it was only in this background that the petitioner sought expeditious disposal of the present case. It is contented that in these circumstances, the observations made by the learned ASJ, Jhajjar, in the impugned order dated 30.10.2018, were unwarranted. It is accordingly prayed that in view of the facts as noticed above, the objectionable remarks and observations be expunged from judicial record.

9. It is further submitted that the petitioner is a law-abiding person and has the highest regards for the dignity of the rule of law. The petitioner has been brought up in a culture where judiciary and the judicial Courts are held at the highest esteem. He is an ardent believer in the rule of law and is otherwise a mild mannered person. The above mentioned remarks by the Presiding Officer have obviously unnerved the petitioner and he has found himself in great mental agony and stress.

10. In support, learned Senior counsel relies upon judgment of Karnataka High Court in **“Govindaraj Shetty Vs. State of Karnataka” 1979 SCC Online Kar 337: 1980 Cri LJ 879**; judgments of the Hon’ble Supreme Court in **“State of UP Vs. Mohammad Naim” (1964) 2 SCR 363: AIR 1964 SC 703: (1964) 1 Cri LJ 549**; and **“Dr. Raghubir Saran Vs. State of Bihar & Another” (1964) 2 SCR 336: AIR 1964 SC 1: (1964) 1 Cri LJ 1**.

11. Learned State Counsel admits the above said facts and submissions made on behalf of the petitioner to be true and correct.

12. No other argument is made on behalf of the parties.

13. I have heard the learned counsel for the parties and perused the case file in detail.

14. A perusal of the record of the case shows that the petitioner has an exemplary academic and professional background. The petitioner graduated in Electrical Engineering (Power) from IIT, Delhi in the year 2010. He worked with NTPC Limited from 2010-15, before joining the Indian Police Services in the year 2015. He has been lauded as an outstanding academician throughout, winning several national and

international laurels. He topped his school in tenth and twelfth board exams. During the basic training course in National Police Academy, Hyderabad, he was adjudged the winner of Atwal Trophy for securing highest marks in the subject Local and Special laws. He is also an avid sportsman. During the training days in Hyderabad, he captained his squad in the Inter-Squad Hockey Tournament to championship. The petitioner is presently posted as Assistant Superintendent of Police, Badli in Jhajjar District.

15. The undisputed factual matrix, as also the timeline of the case has already been noticed hereinabove. The FIR No.601 dated 23.09.2018 was registered under Section 376 IPC and Section 6 of POCSO Act and Section 3 of SC/ST Act at Police Station City Bahadurgarh (Annexure P1), on the allegation that the accused therein had committed rape upon a minor six-year-old girl child. The petitioner was assigned to be the Investigating Officer in this case. The record reveals that investigation was initiated after the minor victim was counselled through a Child Specialist. After investigation, the petitioner prepared a report under Section 173 Cr.P.C. dated 27.09.2018 (Annexure P2); and submitted the same before the learned Court on 29.09.2018.

16. Pursuant to the filing of the report under Section 173 Cr. P.C., the case was marked to the concerned Addl. Sessions Judge, Jhajjar and the challan was presented before her. Perusal of zimni orders passed by the Ld. Additional Sessions Judge (Annexure P/5 Colly) reveal that on 09.10.2018, the Ld. Addl. Sessions Judge, Jhajjar passed an order that since section 3 of the SC/ST Act is involved, this case ought to be tried by Special

Court, where offences under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 are being conducted. Accordingly, she made a request in the said order to the Ld. District & Sessions Judge, Jhajjar that the matter be sent to the said Court. The Ld. District and Sessions Judge marked the file back to the same Presiding Officer. The Ld. Presiding Officer thereafter, made a reference to this Court vide reference no.529 dated 16.11.2018, requesting this Court to decide the jurisdiction, as by which Court the case should be tried and the matter was being adjourned due to this reason.

17. As such, for the above-mentioned reasons, the trial was not proceeding. The Investigating Officer/the petitioner herein, keeping in mind the tender age of the prosecutrix wrote the letter dated 25.10.2018 (Annexure P6)/being the letter in question, to the Ld. District and Sessions Judge, Jhajjar requesting for speedy disposal of the case. A perusal of the said letter shows that all that has been mentioned therein is that the FIR was registered on 23.09.2018 under POCSO Act, 376 IPC and Section 3 of SC/ST Act. It was further mentioned that the challan was prepared on 27.09.2018 and presented in the Court on 29.09.2018. It was mentioned that hearing of the case has not started. Attention was drawn to Haryana government instructions for hearing of such matters in Fast-track Court. It is also mentioned that FSL report has also been received. It was, therefore, prayed to Id. ASJ that the hearing of the case be started in the fast-track court at the earliest. The said Letter does not show use of any offensive language nor does it cast any reflection on the functioning of the judicial officers.

18. The said letter dated 25.10.2018, was marked by the Ld. District and Sessions Judge, Jhajjar to the concerned ASJ. On receipt of the same on 30.10.2018, the Id. ASJ has passed the impugned order dated 30.10.2018 (Annexure P7); inter-alia holding that no exceptional circumstances had been shown by the petitioner for seeking expeditious disposal of the case. The learned ASJ observed that by moving the aforesaid application, the petitioner has tried to create pressure and influence over the Court in a manner, which tantamounts to contempt of court and undue and unwarranted interference in the administration of justice in a fair and impartial manner. The Id. ASJ further held that the special interest shown by the petitioner in a particular case also casts doubts on his integrity, particularly with regard to the course adopted by him while surpassing the learned PP, who alone shall conduct the prosecution as per law.

19. It is but trite to suggest that due to the heinous nature of the offence, the matter required an expeditious investigation and disposal. Needless to say, proximate to the time of occurrence, the child victim would remember every detail of the act. It has also been stated on behalf of the petitioner that the victim child had narrated the same facts without any shame attached therewith. It was also the opinion of the petitioner that she did not have the mental understanding with regard to it being a shameful act. It is my view that with the passage of time, with peer pressure and outside influence, the victim would not have been able to narrate the facts with the same lack of shame; as also the same clarity that the minor victim had at the time proximate to the occurrence; apart from the inevitable memory loss a child of a tender age would ordinarily suffer. I

find merit in the contention that this was the primary reason behind the quick and effective investigation which resulted in filing of challan on 29.09.2018. It was for this reason that DNA and FSL reports were also done expeditiously.

20. It is also an admitted fact on record that a Notification/Memo dated 20.09.2018 (Annexure P3) was issued by the State Government. The said memo pertains to a Scheme namely Chinhit Apraadh, floated by the State of Haryana where-under, State Level Committee as well as District Level Committees were constituted with an idea to identify serious and sensitive crimes. As per record of proceedings of the District Level Committee (Ann.P4 colly) the meeting was held on 03.10.2018. Thereafter, communication dt. 04.10.2018 was issued. A perusal of the letter dated 04.10.2018 (Annexure P4) reveals that in a meeting of the District level Committee, three cases were included in the list of grave and most sensitive offences in District Jhajjar, which included the present case. The specified cases are listed from page 31 onwards. The instant case was included in the list at Pg.39. Further, vide communication dt. 22.11.2018 (Ann.P8), Director General of Police, forwarded a list including the instant case to the Superintendent of Police concerned for appropriate speedy action. Thus, vide letter dated 22.11.2018 (Annexure P8), the present case came to be formally included in the list of Chinhit Apraadh. These factors also necessitated that the present case be closely monitored to ensure speedy disposal of justice to the minor victim.

21. Even otherwise, it has been directed by the Hon'ble Supreme Court that cases triable under the POCSO Act are to be tried by

the fast-track courts and the intent of the legislature in the Act also reflects that such cases be decided on priority. It is my view that in this situation, a request by an Investigating Officer praying to the Court to conform with the legislation and the directions of the Hon'ble Supreme Court cannot be construed as exerting undue pressure or influence over the court.

22. It is also pertinent that before passing the impugned order casting aspersions on the integrity of the petitioner, the petitioner was never served with a notice nor was a reply demanded from him nor any hearing was afforded to him. No opportunity was granted to the petitioner to offer an explanation. For this reason too, the impugned order is unsustainable, being violative of basic principles.

23. It may be pointed out that subsequently, vide judgment/order dated 6/7.08.2018 (Annexure P9), the accused stands convicted in the said case and has been sentenced as under:-

"4. The main object of the POCSO Act enactment was that offences against the children should be countered through commensurated penalties as an effective deterrence. Here it is pertinent to mention that the convict has been held guilty for committing aggravated penetrative sexual assault on a girl below 12 years. Consequently, the convict is not entitled for any leniency.

*5. The convict for committing the offence under **Section 6 of POCSO Act** is sentenced to a **rigorous imprisonment for life and to pay a fine of Rs.10,000/-**. In default of payment of fine, he shall further undergo imprisonment for a period of three months.*

6. The convict for committing the offence under **Section 3(2) (V) SC/ST Act** is sentenced to a **rigorous imprisonment for life and to pay a fine of Rs.10,000/-**. In default of payment of fine, he shall further undergo imprisonment for a period of three months.

7. The convict for committing the offence under **Section 376 (2)(i) of IPC** is sentenced to a **rigorous imprisonment for life and to pay a fine of Rs.10,000/-**. In default of payment of fine, he shall further undergo imprisonment for a period of three months.

8. The above-said substantive sentences shall run concurrently.

Fine not paid.

9. The period already spent by the convict in custody during the course of investigation and during the trial will be set off from the substantive sentences that have been awarded to the convict today. The case property be disposed of as per law. File be consigned to the records after due compliance.”

24. Even as per status report dated 19.05.2022 filed on behalf of the respondent State, in Paras 6 and 7 thereof it has been submitted as under:-

“6. That as the present case was included in the list of marked offences (Chinhit Apradh) and also because a child of tender age of six years was subjected to gruesome offence of rape and to relieve her from the trauma and mental agony of such ghastly and unpleasant act of her life at the earliest, Annexure P-6 was written by the petitioner to the Learned District and Sessions Judge, Jhajjar to requesting for speedy trial only with the intention to safeguard the victim's future.

7. That it is humbly submitted that the petitioner was a novice Indian Police Officer, only nine months into the service since the

completion of induction training, and was on his first posting as SDPO (Assistant Superintendent of Police, Badli District Jhajjar). The petitioner in the wake of guidelines and to meet the parameter set for heinous crime committed on a six-year-old child belonging to marginalized community wrote the letter i.e. Annexure P-6 keeping the best interest of the victim in mind without any malafide intention. However, the letter in question written by the petitioner was not strictly as per the convention and the petitioner ought to have requested the Learned District Attorney, Jhajjar at most if at all, rather than making a direct reference to Ld. District and Sessions Judge. It is further submitted that the intention of the petitioner was not an attack on the independence of the judiciary in the administration of justice. However, the petitioner was at his first independent posting and thus was not habitual to such kind of cases, being recently inducted into the service. He being the investigating officer acted in over enthusiasm with an objective of helping a 6-year-old girl, who had gone through unimaginable mental and physical trauma, get justice in the shortest possible time. Hence, the petitioner in perusing his law full duties committed this error.”

25. From the above it is clear that at worst, the petitioner could have been held to be overzealous. Clearly, there was no mala fide intent on part of the petitioner. As such, to cast aspersions on the integrity of the petitioner, was uncalled for.

26. Before parting, reference may also be made to relied upon judgment of Karnataka High Court in **“Govindaraj Shetty Vs. State of Karnataka” 1979 SCC Online Kar 337: 1980 Cri LJ 879**, wherein it has been held as under:-

"1. This petition is by the Investigating Officer, C.W. 12 in C.C. No. 7602 of 1976 on the file of the Chief Judicial Magistrate Mysore under Section 482 of Criminal Procedure Code praying for expunging certain remarks made against him during the course of judgment dated 22-2-1979 passed by the said Magistrate in the said case. The few facts of the case are that the petitioner who was the Circle Inspector of Police, D-Division, Traffic Branch, Mysore City, filed a charge-sheet against one Abdul Rahaman alleging that on 4-7-1976 at about 2-30 p.m. he was driving a K.S.R.T.C. bus bearing No. MYM 6264 on Mysore-Bangalore road in a rash and negligent manner and ran over the cyclist by name Nissar Ahamed while proceeding on the road near the toll gate, as a result of which he, sustained serious injuries and succumbed to the same thereafter. On the aforesaid allegations, a crime was registered in crime No. 64 of 1976 against the accused for offences punishable under Sections 304(A) and 279 I.P.C. and after completion of the investigation, a charge-sheet was filed by the petitioner against the accused for the said offences in C.C. No. 7602 of 1976. The prosecution examined two witnesses in support of its case and it is seen from the order-sheet that the petitioner who was cited as C.W. 12, could not be examined. Thereafter, the learned Magistrate closed the case of the prosecution and after assessing the evidence, acquitted the accused of the said charges. But, however, during the course of the judgment, the learned Magistrate passed certain remarks against the Investigation Officer censuring about the conduct of the case. The petitioner aggrieved by those remarks approached this Court for expunging of the same on several grounds.

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5. Any remark passed by the Court against a person whether he is a party to the proceedings or not, should be passed only after

giving the said party an opportunity to meet the same. In other words, the principles of natural justice demand that a party should be heard before any remarks are made against him. This is much more so, in case, where disparaging remarks are made by the Court, that too, against a responsible officer like an Investigating Officer. The Court should be fully satisfied that such remarks are called for and on the other hand that the conduct of the Investigating Officer was such that the Court was compelled to make such remarks in the interest of justice. Therefore, the Court has to be slow before passing any remarks and has to arm itself with all the available materials and with sufficient background including one of hearing the party against whom the Court wants to pass remarks. This procedure is not followed. In my view, the Court would not be justified in passing remarks at random behind the back of the person which would prejudice him. This appears to be the cardinal principle that has to be followed by a Court of law. The aforesaid ratio is reiterated by a series of cases and in the case of State of Uttar Pradesh v. Mohd. Naim, (AIR 1964 SC 703) it is laid down by the Supreme Court that the Court must satisfy firstly, whether the party whose conduct in question is before the court or had an opportunity of explaining or defending himself; secondly, whether there is evidence on record bearing on that conduct justifying the remarks; and thirdly, whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. Further, it has been laid down that such remarks must be judicial in nature and should not normally depart from sobriety, moderation and reserve.

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7.....Any remark passed behind the back of any Officer would lead to hazardous consequences with regard to, not only his character but also regard to his tenure, promotion-service etc.

This is not to say that the Courts should not pass such remarks as it deems fit in the circumstances of the case but only the rider imposed is the one of issuing notice to show cause before passing such remarks. On 22-11-1978, the Investigating Officer (petitioner) asserted that further summons was not issued to him. All the while the Magistrate has passed certain remarks which in my opinion could not have been made without notice to him”.

27. The judgment of Hon’ble Supreme Court in **“State of UP Vs. Mohammad Naim” (1964) 2 SCR 363: AIR 1964 SC 703: (1964) 1 Cri LJ 549**, is also relevant wherein it has been held as under:-

*“8. It is now well settled that the section confers no new powers on the High Court. It merely safeguards all existing inherent powers possessed by a High Court necessary (among other purposes) to secure the ends of justice. The section provides that those powers which the court inherently possesses shall be preserved lest it be considered that the only powers possessed by the court are those expressly conferred by the Code and that no inherent powers had survived the passing of the Code (see *Jairam Das v. Emperor* and *Emperor v. Nazir Ahmad*.) We shall presently deal with the question whether the High Court has inherent power to expunge the remarks made by it or by a lower court to prevent abuse of the process of any court or otherwise to secure the ends of justice. Assuming that the High Court has such power, the question now before us is, can the State Government invoke this inherent jurisdiction of the High Court? The learned Judge of the High Court gave two reasons for his finding that the State Government had no locus standi to make an application under Section 561-A CrPC. The first reason he gave was that the State Government could not be said to have been aggrieved by the observations made by him. The second reason he gave was that the State represented*

the executive as well as the judiciary and therefore it would be anomalous if it made an application under Section 561-A Cr.P.C., for such an application would be by the State through its executive to expunge remarks made by it as the judiciary.

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10....We think that the view taken in the High Courts other than the High Court of Bombay is correct and the High Court can in the exercise of its inherent jurisdiction expunge remarks made by it or by a lower court if it be necessary to do so to prevent abuse of the process of the court or otherwise to secure the ends of justice; the jurisdiction is however of an exceptional nature and has to be exercised in exceptional cases only....

11. The last question is, is the present case a case of an exceptional nature in which the learned Judge should have exercised his inherent jurisdiction under Section 561-A CrPC in respect of the observations complained of by the State Government? If there is one principle of cardinal importance in the administration of justice, it is this: the proper freedom and independence of Judges and Magistrates must be maintained and they must be allowed to perform their functions freely and fearlessly and without undue interference by any body, even by this Court. At the same time it is equally necessary that in expressing their opinions Judges and Magistrates must be guided by considerations of justice, fair-play and restraint. It is not infrequent that sweeping generalisations defeat the very purpose for which they are made. It has been judicially recognised that in the matter of making disparaging remarks against persons or authorities whose conduct comes into consideration before courts of law in cases to be decided by them, it is relevant to consider (a) whether the party whose conduct is in question is before the court or has an opportunity of explaining or defending himself; (b) whether there is

evidence on record bearing on that conduct, justifying the remarks; and (c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. It has also been recognised that judicial pronouncements must be judicial in nature, and should not normally depart from sobriety, moderation and reserve.”

28. Another judgment of the Hon’ble Supreme Court in “**Dr. Raghubir Saran Vs. State of Bihar & Another**” (1964) 2 SCR 336: AIR 1964 SC 1: (1964) 1 Cri LJ 1, is relevant wherein it has been held as under:-

“7. From the aforesaid discussion the following principles emerge : (1) A judgment of a criminal court is final; it can be set aside or modified only in the manner prescribed by law. (2) Every Judge, whatever may be his rank in the hierarchy, must have an unrestricted right to express his views in any matter before him without fear or favour. (3) There is a correlative and self-imposed duty in a Judge not to make irrelevant remarks or observations without any foundation, especially in the case of witnesses or parties not before him, affecting their character or reputation. (4) An appellate court has jurisdiction to judicially correct such remarks, but it will do so only in exceptional cases where such remarks would cause irrevocable harm to a witness or a party not before it.

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31. In the case before us, as we have already indicated, the remarks are not such as are likely to cause harm to the appellant nor are such as should cause any harm to him. We, therefore, hold that this is not a fit case for the exercise of the extraordinary power of the High Court under Section 561-A. For these reasons we dismiss the appeal”.

29. Accordingly, in view of the discussion hereinabove, and the factual and legal position as noticed hereinabove, the present petition is **allowed**; and the order dated 30.10.2018 passed by the Additional Sessions Judge, Jhajjar (Annexure P/7) in case FIR No.601 dated 23.09.2018 registered under Sections 376 IPC & Section 6 of P.O.C.S.O Act and section 3 of SC/ST Act at Police Station City, Bahadurgarh (Annexure P/1), is set aside; and all the remarks/warning/observations incorporated therein against the petitioner, are expunged from the judicial record.

30. Pending application(s) if any also stand(s) disposed of.

29.04.2024
Sunena

(Nidhi Gupta)
Judge

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