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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53454-2023
Date of decision: 31.07.2024

Ritu Dalal ...Petitioner

versus

Surender Mohan Jain and others ... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sumit Sangwan, Advocate
for the petitioner

HARPREET SINGH BRAR, J.(Oral)

1. The present petition is preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') against order dated 14.01.2016 (Annexure P-2) passed by the learned Judicial Magistrate Ist Class, Charkhi Dadri whereby the complaint bearing no. COMI-1509/2013 registered under Sections 186, 193, 199, 294, 332, 341, 354, 380, 500, 504, 506, 508, 120-B IPC, was dismissed under Section 203 Cr.P.C. as well as order dated 04.07.2022 (Annexure P-1) passed by the learned Additional Sessions Judge, Charkhi Dadri vide which the revision petition against the same was dismissed.

2. Briefly, the facts are that the petitioner was working



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as an Assistant in the Post Office, Charkhi Dadri. The petitioner was the sole female employee working at the said office and was subjected to inhospitable work environment as the respondents-accused were engaged in untoward behavior by using filthy language, passing chits and playing indecent songs in her presence. She filed a complaint dated 27.10.2006 through post Master to Superintendent J.P. Saini, which caused the respondents to threaten her. Surender Mohan Jain, Satbir Kalkal and J.P. Saini began harassing her to have physical relations with them. The petitioner filed a complaint dated 15.12.2006, consequent to which a committee was constituted. In its report dated 22.05.2007, the Committee recommended the transfer of Satbir Kalkal and transfer of another female employee to Charkhi Dadri. Moreover, all other employees were warned to not engage in such activities in the future. However, the instances of harassment continued and the complaint (*supra*) was filed.

3. Learned counsel for the petitioner *inter alia* contends that the learned Courts below have erred in dismissing the complaint of the petitioner as the settled law dictates that the Court is only required to satisfy itself about the existence of a prima facie case at the summoning stage. Both the learned Courts partially agreed to the allegations leveled by the petitioner but took a hyper-technical approach to dismiss the said complaint. The learned Courts below have also erred in giving undue importance to the departmental proceedings as they are not binding on criminal proceedings.

4. Having heard the learned counsel for the petitioner and after



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perusing the record with his able assistance, it transpires that the petitioner has lodged multiple sexual harassment against the respondents-accused, who are her colleagues. Departmental inquiries were conducted in the said complaints and the complaint (*supra*) contains allegations similar to those made in the previous ones. As such, all these allegations have already been dealt with by the committees set up for that purpose. The committees had concluded that the complaints pertained to administrative issues and allegations qua sexual harassment remained unproven. However, as far as the allegation qua respondent- Surender Mohan Jain sending a love letter to the petitioner through Kartar Singh is concerned, no evidence has been brought on record to verify his handwriting. Moreover, CW4- Bhagat Singh has also not corroborated the said allegation. Further, this Court is of the considered opinion that the remarks made by the learned Court below qua the conduct of the petitioner with respect to lodging complaints against her male colleagues and other related comments, are unwarranted. As such, the findings recorded in para 15 and 16 of the impugned order dated 04.07.2022 (Annexure P-1) are hereby expunged.

5. The learned trial Court dismissed the complaint(Supra) under Section 203 Cr.P.C, which reads as follows:

Section 203- Dismissal of complaint

If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.



A perusal of the abovementioned provision indicates that once the Magistrate has considered the statements of the complainant and the witnesses and concludes that sufficient ground is not made out to engage the Court in further proceedings, he wields the power to dismiss the complaint. It appears that the learned Courts below have justified their stance with well reasoned orders, which satisfy the test of Section 203 Cr.P.C.

6. A three Judge bench of the Hon'ble Supreme Court in ***Nirmaljit Singh Hoon vs. State of West Bengal (1973) 3 SCC 753***, speaking through Justice J.M. Shelat, made the following observations:

*“22... Section 203 consists of two parts. The first part lays down the materials which the magistrate must consider, and the second part says that if after considering those materials there is in his judgment no sufficient ground for proceeding, he may dismiss the complain. In **Chandra Deo Singh v. Prokash Chandra Bose, (1964)1 SCR 639** where dismissal of a complaint by the Magistrate at the stage of Section 202 inquiry was set aside, this Court laid down that the test was whether there was sufficient ground for proceeding and not whether there was sufficient ground for conviction, and observed (P. 653) that where there was prima facie evidence, even though the person charged of an offence in the complain might have a defence, the matter had to be left to be decided by the appropriate forum at the appropriate stage and issue of a process could not be refused. Unless, therefore, , the Magistrate finds that the evidence led before him is self-contradictory, or intrinsically untrustworthy, process cannot be refused if that evidence makes out a prima facie case”*

A two Judge bench of the Hon'ble Supreme Court in ***M/s Pepsi Foods Ltd. vs. Special Judicial Magistrate (1998) 5 SCC 749***, speaking through Justice D.P. Wadhwa, opined as follows:

“26. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and that would be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

7. In view of the discussion above, the present petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

31.07.2024

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(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No