

CRM-M-47671-2022 and three other connected cases

1

250

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 28.08.2024

1.

CRM-M-47671-2022

Nupur Gupta

versus

State of Punjab and another

...Petitioner

...Respondents
2.

CRM-M-48026-2022

Vinayak Chadha

versus

State of Punjab and another

...Petitioner

...Respondents
3.

CRM-M-49834-2022

Varun Sharma

versus

State of Punjab and another

...Petitioner

...Respondents
4.

CRM-M-35279-2023

Rakesh Mohan Sharma

versus

State of Punjab and another

...Petitioner

...Respondents

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Inderjit Sharma, Advocate
for the petitioner(s) in CRM-M-47671-2022,
CRM-M-48026-2022 and CRM-M-49834-2022
Mr. R.S. Manhas, Advocate
for the petitioner in CRM-M-35279-2023

**CRM-M-47671-2022 and three other connected cases****2**

Mr. Gurminder Singh Salana, Advocate
for respondent No.2 (in all four cases)

Mr. Rishabh Singla, AAG, Punjab

HARPREET SINGH BRAR J. (ORAL)

1. This common order shall dispose of all four of the abovementioned petitions as they arise from identical factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-47671-2022.

2. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR bearing No. 80 dated 13.07.2022 registered under Sections 341, 354, 354-A, 506, 120-B of the IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter 'SC/ST Act') at Police Station Division No.1, Pathankot as well as all subsequent proceedings arising therefrom.

FACTUAL BACKGROUND

3. The facts, as decipherable from the FIR(supra), are that respondent No.2 is a Lecturer in GNDU College, Lamini. Two students namely Abhishek and Chakshu were playing mischief by opening and closing the doors when respondent No.2 was taking a class. It is further alleged that the said students were infamous for harassing female teachers and students. After engaging in their mischievous acts, the two would have snacks with petitioners-Vinayak, Nupur and Varun. When respondent No.2 approached them, one of the two students pushed her and stated that she should not have a problem if the principal does not. He hit her on her breast and uttered derogatory words. Respondent No.2 approached the principal i.e. petitioner-Rakesh Mohan Sharma, and narrated the incident to him. However, he refused to intervene without inputs from the Vice Chancellor, who works in Amritsar.

**CRM-M-47671-2022 and three other connected cases****3**

Meanwhile, petitioner-Varun assisted the accused students to slip away from the college. Respondent No.2 called the police but petitioner- Rakesh Mohan Sharma refused to disclose their addresses. Respondent No.2 further alleges that the mistreatment meted out to her is a part of the larger scheme to rid the college of any teachers from the Scheduled Castes.

4. Respondent No.2 further states that petitioner-Rakesh Mohan Sharma, would carpool with her at times. One such time, when he had to visit the office of the District Collector, he travelled in the car of respondent No.2 and put his hand on her shoulder. He told her to not be offended as he could not do anything in his old age. Respondent No.2 told him to get out of her car causing him to bow his head and address her as 'sister' in front of the staff.

CONTENTIONS

5. Learned counsel for the petitioner(s) (in CRM-M-47671-2022, CRM-M-48026-2022 and CRM-M-49834-2022) *inter alia* contends that vague, fabricated and unsubstantiated allegations have been leveled against the petitioner(s). No offence under Section 3 of the SC/ST Act is made out against the petitioner(s) as no derogatory words pertaining to the caste of respondent No.2 were uttered by them in public view. The FIR(supra) has only been registered against the petitioner(s) at the behest of the husband of respondent No.2 who is a police officer. Further, nothing in the FIR(supra) discloses commission of act that would amount to outraging the modesty of a woman. Moreover, no specific date or month has been mentioned qua the alleged offence.

6. Leaned counsel for the petitioner in CRM-M-35279-2023 submits that respondent No.2 was working as an Assistant Professor for Punjabi on a

**CRM-M-47671-2022 and three other connected cases****4**

part time basis when he joined the college as Officer on Special Duty/Principal. An advertisement was circulated for a permanent post and respondent No.2 had been trying to pressurize the petitioner to regularize her, with the help of her husband- Inspector Avtar Singh, SHO, Police Station Division No.1. Respondent No.2 was not shortlisted for the interview, causing her to serve a legal notice on the University. Pertinently, no allegations were leveled against the petitioner in the said legal notice. Respondent No.2 also submitted a representation to the National Commission for Scheduled Castes (NCSC). The NSCS sought a response from the University. The University duly complied and submitted a reply stating that the post in question was unreserved and the candidate awarded the same has been selected solely per rules. Respondent No.2 and her husband, had been threatening to implicate the petitioner in a false case of this nature, which caused him move a petition bearing No. CRM-M-28280-2022, seeking protection of his life and liberty. In view of the order passed by this Court on 06.07.202 (Annexure P-11), the petitioner approached the SSP and requested him to take appropriate action against husband of respondent No.2. It was due to the constant harassment that the petitioner requested to be transferred from GNDU College, Pathankot to GNDU College, Sujampur, where he has been working since 22.08.2022. Merely bald allegations have been leveled against the petitioner in the FIR (supra) with the intention to settle scores and humiliate him.

7. *Per contra* learned counsel for respondent No.2 submits that the petitioners(s) have been specifically named in the FIR (supra). In connivance with each other, they have created a hostile work environment for respondent No.2, in view of her caste identity. As such, they deserve to face trial and no interference is warranted by this Court.

**OBSERVATIONS AND ANALYSIS**

8. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that petitioners- Nupur Gupta, Varun Sharma and Vinayak Chadha were teachers and petitioner- Rakesh Mohan Sharma was the principal, who worked at GNDU College, Lamini at the time of the alleged offence. Curiously, respondent No.2 has not even stated any date or even month relating to the occurrence of the alleged incident in the FIR (supra). It also appears that respondent No.2 was working as a part time Lecturer and was not selected for a regular post. Therefore, in connivance with her husband namely Avtar Singh, Inspector, in-charge for Police Station Division No.1, respondent No.2 had been harassing petitioner- Rakesh Mohan Sharma. Petitioner-Rakesh Mohan Sharma had moved various complaints (dated 27.10.2021, 05.05.2022, 06.05.2022) against the couple and the FIR (surpa) was ostensibly filed as a counterblast to the same. Moreover, the petitioners- Nupur Gupta, Varun Sharma and Vinayak Chadha are young academics, who have not been attributed any specific role that would attract any of the offences alleged in the FIR(supra).

9. The Hon'ble Supreme Court in ***Iqbal @ Bala and others vs. State of U.P. and others 2023 AIR SC3731*** has opined that when the FIR seems to be instituted with an ulterior motive, the Courts must exercise its inherent powers under Section 482 Cr.P.C. more prudently and examine the attending circumstances emerging from the record of the case along with the averments made in the FIR.

10. A two Judge bench of the Hon'ble Supreme Court in ***Ram Sharam Chaturvedi vs. State of Madhya Pradesh 2022(4) R.C.R. (Criminal)***



CRM-M-47671-2022 and three other connected cases

6

611, opined that in order to attract Section 120-B IPC, it is pertinent to prove that the accused have performed overt acts in furtherance of an agreement to commit an offence. Speaking through Justice P.S. Narsimha, the following was held:

“22. The principal ingredient of the offence of criminal conspiracy under Section 120B of the IPC is an agreement to commit an offence. Such an agreement must be proved through direct or circumstantial evidence. Court has to necessarily ascertain whether there was an agreement between the Appellant and A-1 and A-2. In the decision of ***State of Kerala v. P. Sugathan and Anr.***², this Court noted that an agreement forms the core of the offence of conspiracy, and it must surface in evidence through some physical manifestation:

“12. ...As in all other criminal offences, the prosecution has to discharge its onus of proving the case against the accused beyond reasonable doubt. ...A few bits here and a few bits there on which the prosecution relies cannot be held to be adequate for connecting the accused with the commission of the crime of criminal conspiracy...

13. ...The most important ingredient of the offence being the agreement between two or more persons to do an illegal act. In a case where criminal conspiracy is alleged, **the court must inquire whether the two persons are independently pursuing the same end or they have come together to pursue the unlawful object. The former does not render them conspirators but the latter does.** For the offence of conspiracy some kind of **physical manifestation of agreement is required to be established.** The express agreement need not be proved. The evidence as to the transmission of thoughts sharing the unlawful act is not sufficient...” (emphasis supplied)”

23. The charge of conspiracy alleged by the prosecution against the Appellant must evidence explicit acts or conduct on his part, manifesting conscious and apparent concurrence of a common design with A-1 and A-2. In ***State (NCT of Delhi) v. Navjot Sandhu***³, this Court held:

“101. One more principle which deserves notice is that the cumulative effect of the proved circumstances should be taken into account in determining the guilt of the accused rather than adopting an isolated approach to each of the circumstances. Of course, each one of the circumstances should be proved beyond reasonable doubt. Lastly, in regard to the appreciation of evidence relating to the conspiracy, **the Court must take care to see that the acts or conduct of the parties must be conscious and**



clear enough to infer their concurrence as to the common design and its execution.” (emphasis added)

11. A two Judge bench of the Hon’ble Supreme Court in ***Premiya @ Prem Prakash v. State of Rajasthan (2008) 10 SCC 81***, speaking through Justice Dr. Arijit Pasayat, made the following observations regarding the offence punishable under Section 354 IPC:

“12. In order to constitute the offence under Section 354 Indian Penal Code mere knowledge that the modesty of a woman is likely to be outraged is sufficient without any deliberate intention of having such outrage alone for its object. There is no abstract conception of modesty that can apply to all cases. (See State of Punjab v. Major Singh, (AIR 1967 Supreme Court 63). A careful approach has to be adopted by the court while dealing with a case alleging outrage of modesty. The essential ingredients of the offence under Section 354 Indian Penal Code are as under:

- (i) that the person assaulted must be a woman;*
- (ii) that the accused must have used criminal force on her;*
- and*
- (iii) that the criminal force must have been used on the woman intending thereby to outrage her modesty”*

12. Recently, a two Judge bench of the Hon’ble Supreme Court in ***Mohammad Wajid and another v. State of U.P. and others Criminal Appeal No. 2340 of 2023*** decided on 08.08.2023, speaking through Justice J.B. Pardiwala, laid down the ingredients to attract the offence under Section 503 of the IPC, punishable under Section 506 IPC:

“24. An offence under Section 503 has following essentials:-

- 1) Threatening a person with any injury;*
 - (i) to his person, reputation or property; or*
 - (ii) to the person, or reputation of any one in whom that person is interested.*
- 2) The threat must be with intent;*
 - (i) to cause alarm to that person; or*

**CRM-M-47671-2022 and three other connected cases****8**

(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.”

13. The case of the prosecution does not satisfy the ingredients of offence alleged to have been committed by them. Nothing on the record indicates the use of criminal force by the petitioners on respondent no.2. Moreover, the petitioners- Nupur Gupta, Varun Sharma and Vinayak Chadha were merely bystanders and did not participate in the incident as alleged by respondent No.2. Petitioner-Rakesh Mohan Sharma was not stated to be present at the spot of occurrence. In fact, specific roles and overt acts have only been attributed to the main accused i.e. students- Abhishek and Chakshu. While respondent No.2 alleges that petitioner-Rakesh Mohan Sharma wanted to kill her, nothing has been brought to the record to reflect the same. No such act has been attributed to the petitioners which could reasonably cause alarm in the mind of respondent no. 2.

14. As far as the allegations invoking the SC/ST Act are concerned, it is settled law that merely the fact that the victim belongs to a Scheduled Caste or Scheduled Tribe would not attract the said statute. The existence of an intention to humiliate the victim due to her caste identity is a *sine qua non* to attract offences under the SC/ST Act. Reliance in this regard can be placed on ***Hitesh Verma vs. State of Uttarakhand (2020)10 SCC 710*** and ***Ramesh Chandra Vaishya vs. State of Uttar Pradesh and another 2023 SCC OnLine 668***. At no point have the petitioners been accused of insulting respondent No.2 on the basis of her caste identity, but it is the main accused- Abhishek and

Chakshu who have allegedly uttered derogatory words to her, the nature of which is unclear.

CONCLUSION

15. In view of the discussion above, this Court finds that none of the offences alleged in the FIR(supra) are made out against the petitioners. Accordingly, all four of the petitions specified above are allowed and the FIR bearing No. 80 dated 13.07.2022 registered under Sections 341, 354, 354-A, 506, 120-B of the IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter ‘SC/ST Act’) at Police Station Division No.1, Pathankot stands quashed qua the petitioners namely Nupur Gupta, Vinayak Chadha, Varun Sharma and Rakesh Mohan Sharma.

16. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

28.08.2024
Ajay Goswami

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No