



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108

CRR-1908-2024 (O&M)

Date of Decision: 27.09.2024

Suresh Pal

....Petitioner

Versus

State of Haryana and another

.... Respondents

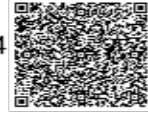
CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: -Mr. J.P.Dhull, Advocate for the petitioner.

NIDHI GUPTA, J.

Challenge in the present petition is to the order dated 12.08.2024 passed by learned Additional Sessions Judge, Kurukshetra whereby charges have been framed against the petitioner under Sections 354, 354-A, 506, 509 and 180 IPC and Section 3(1) and 3(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC/ST Act') in case FIR No. 156 dated 19.03.2022 under Sections 354, 354-A, 506, 509 and 180 IPC and Section 3(1) and 3(2) of SC/ST Act registered at Police Station Kurukshetra University, District Kurukshetra.

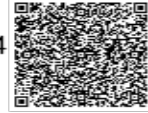
Learned counsel for the petitioner/accused submits that a bare perusal of the FIR (Annexure P-1) shows that no offence is made out against the petitioner. It is submitted that the genus of the present dispute is that the complainant is posted as a Fishery Officer and the petitioner is a Supervisor in the Fishery Department. As such, the petitioner is her immediate superior; and due to departmental politics, the present FIR has come to be registered. Learned counsel contends that the complainant has a track record of not



performing her duties in a timely manner and of misconduct in office. This fact was reported by the petitioner to the higher authorities and an enquiry was conducted by the Joint Director, Fishery Department against respondent No.2 in respect of which report dated 05.04.2022 (Annexure P-2) was submitted by the Joint Director, Fishery Department, Haryana to the Director, Fishery Department Haryana. In the said report, it has been found that the complainant/respondent No.2 does not take Government functioning seriously. She is habitual of not obeying orders of Fishery Officers. As such, departmental action was recommended against the complainant. It is submitted that it is in this background, the present FIR came to be registered on 19.03.2022.

It is further contended that the allegations made in the FIR to the effect that the petitioner kept an evil eye on the complainant; or used to do illicit talks to the complainant, are false and fabricated. It is argued that even there is no allegation against the petitioner, and it is nowhere mentioned that the petitioner abused or used any caste words to the complainant. As such, no offence is made out against the petitioner under the SC/ST Act. However, these facts have not been appreciated by the learned trial Court in passing the impugned order dated 12.08.2024.

It is further argued that as per Section 3 of the SC/ST Act, it is necessary for the offences to have been committed in public. It is submitted that in the present case, provision of SC/ST Act is not attracted because the alleged telephonic messages were conveyed to the complainant on her mobile phone. As such, no offence was committed in “public view”. The offence under Sections 1 and 3 of the SC/ST Act would be attracted only if the



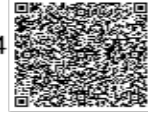
casteist words are used in “public”. In the present case, it is the own case of the complainant that talks took place on the telephone.

In support of his contention, learned counsel for the petitioner relies upon a judgment passed by a Coordinate Bench of this Court in ***CRR No. 1354 of 2019*** titled as ‘*Pardeep Kumar vs. State of Haryana and another*’, ***Neutral Citation No. 2020:PHHC:037048***. It is accordingly prayed that the present petition be allowed and the impugned order dated 12.08.2024; and chargesheet under Section 228(1)(b) of Code of Criminal Procedure, 1973 in the case arising out of F.I.R. No. 256 dated 19.3.2022 of Police Station Kurukshetra University, District Kurukshetra for the commission of offences punishable under Section 354, 354-A, 506, 509 and 180 of I.P.C. and Section 3(1) and 3(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 be set aside.

No other argument has been raised on behalf of the petitioner.

I have heard learned counsel for the petitioner as also perused the case file in great detail.

Briefly stated, the admitted facts are that the complainant is posted as Fishery Officer in the Fishery Department at Thanesar, Haryana. The district of the complainant is under the supervision of the petitioner who is the District Fisheries Officer. It appears from the record that the petitioner had submitted a complaint dated 10.03.2022 against the complainant to the Joint Registrar, Fishery Department, Haryana in respect of which an enquiry was conducted; and vide report dated 08.04.2022 (Annexure P-2), it was recommended that strict departmental action be taken against the



complainant/respondent No.2. In the meantime, the present FIR was registered by the complainant on 19.03.2022.

The petitioner is aggrieved of the order dated 12.08.2024 passed by the learned Additional Sessions Judge, Kurukshetra whereby, in the above said FIR charges have been framed against the petitioner under Sections 354, 354-A, 506, 509 and 180 IPC and Section 3(1) and 3(2) of the SC/ST Act. It is the first contention of the petitioner that even there is no allegation in the FIR that any casteist words were used by him against the complainant. However, a perusal of the FIR reveals that it is the clear allegation of the complainant that *“That being I belonging to SC caste he is keeping personal grudge against me and he is used to see me with evil eyes and is used to say filthy language and he is used to say me illicit talks on phone in the premises of the office. He is used to say me that he is yours officer. It is your duty to oblige my direction. He is used to say me that you have to follow my legal or illegal directions. I have direct links with Director. I have to do his unwanted works. He used to say me that he will not to get approve my leaves. He used to threatening me that if you did not follow his direction, then he by making complaint against me to the director will be get suspended and will spoil ACR in Service record/book. I have been intimated this fact to the department twice through email. I have danger to my life and liberty from Suresh Kumar, District Fisheries Officer and he caused any loss to me.”*

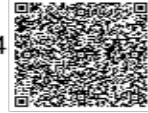
A bare reading of the above extract of the FIR clearly shows that the allegation against the petitioner is that he bore a personal grudge against the complainant because she belongs to the scheduled caste and was therefore mistreating the complainant in the manners enumerated thereafter. The



inference, therefore, is that the alleged misconduct of the petitioner qua the complainant stemmed from the fact that she is a member of the scheduled caste i.e. in addition to the personal bias/grudge of the petitioner against the complainant, and because of the said grudge, he was also committing the other offensive acts alleged in the FIR.

It is the next contention of the petitioner, that it is only when an abuse is made in public that it would constitute an offence under section 3 of the SC/ST Act. However, the said argument of the petitioner is liable to be rejected as it is the clear allegation of the complainant that the illicit talks of the petitioner were done on the phone '*in the premises of the office*' i.e. a public place. Whether or not, the said illicit talks were in the hearing of other persons is a fact that can be determined only upon trial. It is established legal principle that at the time of framing of charge, the probative value of the material on record cannot be gone into, but before framing a charge, the court must apply its judicial mind on the material on record and must be satisfied that the commission of offence by the accused was *possible*. In the present case, the petitioner is in a fiduciary relationship with the complainant being her immediate superior in Service. As such, there is a definite possibility that he committed the alleged offences. The question whether or not he misused his position, is to be determined upon trial. At this juncture, it is only to be seen if there is the 'possibility' of the alleged offences having been committed; and it is the opinion of this Court that the possibility definitely exists.

A similar question came up before the Allahabad High Court in **AN No. 25953 of 2017** titled as '**Suresh Pathak versus State of UP and**



Another’. In the said case also the allegation against the petitioner was that he, while talking to the first informant on mobile phone used caste related derogatory words. The question before the Court was whether such an alleged act will constitute an offence under Section 3(1)(s) of the SC/ST Act. Vide judgment dated 17.8.2017, the Allahabad High Court refused to quash the charge sheet holding that:

“This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by the Court, for the reason, lest the same might cause any prejudice to either side during trial. But it shall suffice to observe that the perusal of the FIR and the material collected by the Investigating Officer on the basis of which the charge sheet has been submitted, makes out a prima facie case against the accused at this stage and there appear to be sufficient ground for proceeding against the accused. I do not find any justification to quash the chargesheet or the proceedings against the applicants arising out of them as the case does not fall in any of the categories recognised by the Apex Court which may justify their quashing.”

The above said order dated 17.8.2017 was challenged before the Hon’ble Supreme Court by way of **Special Leave to Appeal (Crl.) No. 8581 of 2017** titled as **‘Suresh Pathak versus State of Uttar Pradesh and another’**, which was dismissed in limine vide order dated 17.11.2017. As such, the petitioner can derive no benefit from the relied upon judgment of this Court in **Pardeep Kumar’s case (supra)**. In any event, the case of the present complainant stands on a better footing than the above mentioned two



cases, as in both of the above cases, derogatory words were alleged to have been said on the mobile phone, whereas, in the present case, the talks are ‘*on phone in the premises of the office.*’

In view of the above discussion, I find no ground is made out to interfere in the impugned order.

Dismissed.

Pending applications, if any, stand disposed of.

27.09.2024

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No