



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

228

CRR-17-2024(O&M)

Date of order: 02.12.2024

Sita Indiver

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM:

HON'BLE MS. JUSTICE NIDHI GUPTA

Present:-

Mr. Sanyam Khetarpal, Advocate
for the petitioner.Mr. Praveen Bhadu, Asst. AG Haryana
Assisted by L/ASI Pushpa.Mr. Keshav Pratap Singh, Advocate
Mr. Rajat Singh, Advocate
Ms. Tanya Kanwar, Advocate
for respondent No.2.

Nidhi Gupta, J.

Challenge in the present petition is to the order dated 01.07.2023 passed by the learned Additional Sessions Judge, Palwal in case FIR No.54 dated 18.05.2022 registered under Section 3(1)(R) of SC and ST (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the SC/ST Act"); Section 354-A/509 IPC, 1860 at Women Police Station District Palwal vide which the offence under Section 3 of the SC/ST Act, has been deleted.

2. Learned counsel for the petitioner/complainant inter alia submits that the accused/respondent No.2 is habitual of making casteist comments against his employees. His conduct in the office is highly objectionable, disgraceful and unacceptable. He uses abusive and derogatory, vulgar language towards all female staff of the office

disregarding their dignity. He not only uses derogatory words related to caste but also tries to tarnish image and character of the petitioner/complainant by linking the name of the petitioner with other workers. As such it has become difficult for the petitioner and the other workers to work. It is contended that this behavior of the respondent No.2 undermines the basic fabric of her society. The female employees are fed up of the behavior of the respondent No.2. This is very much evident from their statements made under Section 161 Cr.P.C. which are on record as Annexure P2 to P4. As such the learned Court below is in patent error in deleting the offence under Section 3 of the SC/ST Act vide the impugned order. Learned Additional Sessions Judge has failed to take into consideration the fact that the statements made by the petitioner as well as the other employees make it crystal clear that how the respondent No.2 has been intentionally insulting with intent to humiliate people with different caste and especially the petitioner by using derogatory casteist words.

3. It is submitted that Section 3 of the SC/ST Act plays a crucial role in safeguarding the rights and interests of the marginalized communities, ensuring that justice is served and discrimination is addressed appropriately. Therefore, the deletion of Section 3 from the FIR severely compromises the fundamental rights and protections guaranteed to the petitioner as a member of the Scheduled Caste community. It is submitted that in view of respondent No.2's consistent pattern of abusive language, disrespect towards women, disregard for caste/religious sentiments, and

lack of moral values, it is imperative that the order dated 01.07.2023 be set aside. Allowing such an order to stand would not only perpetuate injustice but also send a message that such offensive and derogatory behavior is permissible and can go unpunished.

4. Per contra, learned counsel for the respondent No.2 opposes the prayer made on behalf of the petitioner and submits that the petitioner has no concern with the present case as she was not even present at the time of alleged occurrence. It is further contended that the present FIR is motivated as the respondent No.2 had given warning to the petitioner in August 2017 and May 2020. As such she harboured animosity towards respondent No.2, which has resulted in the present FIR. In fact, respondent No.2 had apprehended that the petitioner may try and embroil him in a false case. As such, the respondent No.2 had also filed a complaint/representation before the Deputy Commissioner concerned voicing the apprehension that he may be implicated in false case.

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

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

7. Perusal of record of the case shows that the petitioner/complainant/alleged victim is working in the District Child Protection Office since 31.08.2012. Respondent No.2 is serving as District Child Protection Officer in the same office. The present FIR No.54 dated 18.05.2022 (Annexure P1) was registered on the basis of the statement

made by the petitioner, and the same reads as under: -

“To Smt. Chairperson, Haryana State Commission for Women, Panchkula, Haryana. Respected Madam, I, Sita Indivar, have been working in the District Child Protection Office (Palwal, PO-NIC) since August 31, 2012, and I have been diligently and faithfully performing all the duties assigned to me by the office. Madam, the conduct and behavior of our District Child Protection Officer (Mr. Kapil Kumar) at the office is highly objectionable, disgraceful, and unacceptable. He uses abusive and derogatory language (vulgar language, insults) towards all female staff members of the office, disregarding their dignity. He has created an atmosphere of fear and mental pressure despite my dedicated efforts to perform my duties efficiently. He not only uses derogatory words related to caste but also tries to tarnish my image and character by linking my name and that of DCPS worker ORW Lalita Saini with one Gangaram, a working staff member of Women and Child Development, Palwal, and people outside the office have been informed that both of us are living on his money. I don't know whether he satisfies both of them or not, similar complaints are also made by other working employees. They have also engaged in disrespectful and indecent conversations with the Central Director of One Stop Center, and their derogatory remarks have been spread among all the staff members. A complaint regarding their unacceptable behavior was lodged with the Commission. That Mr. Kapil Kumar, the District Officer, put mental pressure on me and other' staff members for compromise. That I was not physically well on May 16, 2022. In my absence, the whole staff again was pressurized for compromise and said to implicate Harijan Act by me caste Khulkar, and also stated that do whatever you can do I have also hired advocates out of 1700 advocates in Palwal and said remember that now this thing has been reached to the children. Madam, the intent behind their negative behavior,

such as spreading false news without verifying facts or publishing baseless articles, is aimed at defaming and targeting their community. Due to such an environment, it has become difficult for me to work. Additionally, concerns about safety and protection for me and my children have arisen in the atmosphere of complaints, whether at the office or at home. If action is not taken against them, there is a possibility of something wrong happening to me or my children in the future, and the responsibility for that would lie with the District Child Protection Officer (DCPO). Therefore, I request the Commission to take strict action against them...”.

8. A bare reading of the above said FIR shows that there is no specific incident mentioned therein regarding commission of any offence under the SC/ST Act. Only general allegations have been made against the respondent No.2 regarding harassment and alleging that respondent No.2 uses abusive language towards the female staff. Even a perusal of the statements made by other employees (Annexure P2 to P4) shows that no specific incident is mentioned therein as well. At this stage, it has been contended on behalf of the petitioner that the present FIR does not reflect the contents of the complaint filed by the petitioner. However, it is admitted that the said complaint has not been attached with the present petition.

9. Perusal of the impugned order shows that it is recorded therein that it has also been alleged by the petitioner that on 07.03.2022, the respondent No.2 had approached the Data Entry Operator to prepare a list with regard to street children and best social workers. It is alleged that at the said time, the respondent No.2 had referred to the petitioner as

being “..... involved in ‘Chamar Panti’”, which was overheard by the petitioner. It has been contended that therefore an offence under section 3 of the SC/ST Act is made out. However, the said contention of the petitioner is liable to be rejected as even if it is accepted for the sake of argument that the said words were uttered by respondent no.2, however, admittedly, the respondent No.2 had not uttered the said words to the petitioner herself. The respondent No.2 had not directly called the petitioner by any casteist names. It is therefore, the own case of the petitioner that the petitioner was not privy to the conversation and that the said remarks were not made in public view. As such, no offence under Section 3 of the SC/ST Act is made out against the respondent No.2. It is also to be appreciated that the alleged incident is of 7.3.2022; whereas the present FIR has been registered on 1.7.2023. It is for these reasons that the offence under Section 3 of the SC/ST Act has been deleted vide the impugned order.

10. It has further been alleged by the petitioner the accused is guilty in other complaints/incidents. However, it is admitted that no reference is made to the said other incidents in the FIR or even in the present petition. It is also not denied by the petitioner that the respondent No.2 had previously given oral as well as written warning to the petitioner as she used to come late to office; or that prior to the registration of the present FIR, the respondent No.2 had moved an application before the Deputy Commissioner expressing his apprehension that he may be falsely implicated in an SC/ST case by the petitioner.

11. Thus, keeping in view the aforesaid facts, no ground is made out to interfere in the impugned order. Present petition accordingly stands **dismissed**.

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

02.12.2024
Sunena

(Nidhi Gupta)
Judge

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