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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 442/2023, CRL.M.A. 1737/2023, CRL.M.A. 22452/2023**

SANDHYA BINDAL

.....Petitioner

Through: **Mr. Dhananjai Jain, Advocate**

versus

GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: **Mr. Satish Kumar, APP for the State
with SI AbhishekhGuleria, PS-Anand
Parbat.**

**Respondent No.2 in person (Through
VC)**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

20.12.2024

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1. The instant petition has been filed by the petitioner praying for setting aside of the order dated 29th November, 2022 (hereinafter “impugned order”) passed by the learned Principal District and Sessions Judge, West District, Tis Hazari Courts, Delhi (hereinafter “Sessions Judge”) in Criminal Revision No. 20/2021 wherein the revision petition under Section 397 of the Code of Criminal Procedure, 1973 (hereinafter “CrPC”) filed by the petitioner challenging the summoning order was dismissed. The instant petition also seeks quashing of the proceedings in Complaint Case No. 20445/2016 at Police



Station - Anand Parbat, Delhi which is currently pending before the learned Metropolitan Magistrate (hereinafter “MM”), Tis Hazari Court, Delhi. The prayer of the petitioner is as under:

“a) Set aside order dated 29.11.2022 passed by Sh. Sanjay Kumar, District & Sessions Judge (W), Tis Hazari, Delhi in Cr.R. no. 20 of 2021 and quash proceedings in Complaint Case no. 20445 of 2016 pending in the court of Sh. Shubham Devadiya, M.M. Tis Hazari Court Delhi;

b) pass such other, further and consequential orders that may be deemed fit and proper in the interest of justice.”

2. The brief facts of the case are that the petitioner was working as the Principal of Ramjas School, Anand Parbat, New Delhi and she was responsible for the welfare and maintenance of good standards in the school. The respondent no.2/complainant was a parent of a student studying in the said school and he along with other parents went to the petitioner’s office to lodge their dissent against some decisions taken by the petitioner in her capacity as the Principal of the said school, pursuant to which a scuffle broke out between the parties. It is alleged in the instant complaint that the respondent no.2 along with other parents was subjected to intimidation and wrongful confinement by the petitioner. Thereafter, the learned MM vide order dated 6th June, 2019 was pleased to summon the petitioner in the instant case, which was challenged under Section 397 CrPC before the learned Sessions Judge in Criminal Revision No. 20/202. The learned Sessions judge dismissed the revision petition filed by the petitioner *vide* impugned order passed on 29th November,



2022. Aggrieved by the same, the instant petition has been filed by the petitioner before this Court.

3. Learned Counsel for the petitioner submitted that the learned Sessions Judge failed to appreciate that the revision petition was filed by the petitioner within a period of 90 days from the date of knowledge of the same being 24th December, 2019. It is further submitted that the learned Sessions Judge failed to appreciate that no knowledge of the proceedings or the passing of the summoning order could be imputed to the petitioner prior to that date.

4. It is submitted that the learned Sessions Judge failed to appreciate that the limitation was suspended by the Hon'ble Supreme Court with effect from 15th March 2020. It is further submitted that the limitation period of 90 days which started from 24th December, 2019, expired on 23rd March, 2020 and thus the benefit of the suspension of limitation with effect from 15th March, 2020 would be granted to the petitioner.

5. It is submitted that the learned Sessions Judge failed to appreciate that in case of an order made in absence of the concerned party, the limitation period does not start from the date on which the order is passed but from the date of its knowledge to the concerned party.

6. It is submitted that the learned Sessions Judge failed to appreciate the merits of the case and has taken a hyper technical view of the principle of limitation, which is not made out in the present case.

7. It is submitted that the allegations against the petitioner are malicious in nature which is evident from the fact that the allegations made initially in the



police complaint are at variance from the allegations made later in the instant complaint.

8. Therefore, in light of the foregoing submissions, it is prayed that the instant petition may be allowed.

9. *Per Contra*, learned APP appearing on behalf of the State vehemently opposed the instant petition submitting to the effect that there is a *prima facie* case made out against the petitioner in the present case and hence, the relief sought by the petitioner should not be granted.

10. Heard the learned counsel for the parties and perused the material placed on record.

11. The petitioner had filed a revision petition before the learned Sessions Judge under Section 397 read with Sections 399 and 401 of the CrPC challenging the summoning order dated 6th June, 2019 passed by the learned MM in Criminal Complaint No. 20445/2016 at Police Station - Anand Parbat, Delhi. Along with the said revision petition, the petitioner filed an application seeking condonation of delay in filing the same under Section 5 of the Limitation Act, 1963. The learned Sessions Judge in the impugned order held that the petitioner had failed to establish sufficient reasons for the condonation of delay and consequently, the revision petition filed by the petitioner was dismissed as it was barred by limitation.

12. At this stage, before adverting to the merits of the case, it is important to discuss the settled law on the issue of condonation of delay under Section 5 of the Limitation Act, 1963.



13. In the case of ***Pathapati Subba Reddy v. LAO***, 2024 SCC OnLine SC 513, the Hon'ble Supreme Court laid down the factors to be considered for deciding the question of condonation of delay. The relevant portion of the judgment is reproduced below:

“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if



the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

14. The law of limitation is based on public policy and its object is to put an end to every legal remedy after a certain period of time as it is futile to keep a dispute or litigation pending indefinitely. The law of limitation envisages that if a remedy is not availed for a certain defined period of time, it ceases to exist.

15. It is well-established in law that the law of limitation may harshly affect the parties approaching the Court but it has to be applied with all its rigour if the statute so prescribes. The expression ‘sufficient cause’ in Section 5 of the Limitation Act, 1963 cannot be interpreted in a liberal manner if there is negligence, inaction or lack of *bona fide* on the part of the party seeking condonation. No Court would be justified in condoning an inordinate delay if there is no sufficient cause that prevented the litigant from approaching the Court on time.

16. Article 131 of the Limitation Act, 1963 provides that the limitation for filing an application to the Court concerned for the exercise of its powers of revision under the CrPC is 90 days from the date of the order that is sought to be revised. In the present case, the summoning order was passed on 6th June, 2019 and the revision petition against the said order was filed by the petitioner



on 4th February 2021. It is clear that the petition was filed with a delay of about 1 year and 8 months, which exceeds the limitation period of 90 days provided for under Article 131 of the Limitation Act, 1963.

17. It is the petitioner's case that the revision petition was not time barred as she had no knowledge of the summoning order before 24th December 2019 and therefore the period of 90 days should start from the day when the petitioner gained knowledge of the said order and extend till 23rd March 2020, which would further be extended in light of the judgment of the Hon'ble Supreme Court in *Cognizance for Extension of Limitation, In re, (2020) 19 SCC 10* which suspended limitation from 15th March 2020 onwards due to the Covid-19 pandemic.

18. This Court is of the view that there is no merit in the petitioner's above mentioned contention as the petitioner was aware of the Complaint Case No. 20445/2016 since the year 2016, and the same formed the subject matter of the revision petition filed by the petitioner as the summoning order was passed by the learned MM in the said case. It is also considered by this Court that the petitioner had challenged the said Complaint Case before this Court *vide* Criminal M.C. Case No. 387/2017, which was ultimately dismissed on 22nd February, 2018. Therefore, this Court is satisfied that the petitioner actively participated in the proceedings arising out of the instant Complaint and cannot claim lack of knowledge of the summoning order passed by the learned MM on 6th June, 2019.

19. The petitioner has also sought quashing of the proceedings in Complaint Case No. 20445/2016 in the instant petition. Before advertng to the merits of



the case, it is important to discuss the settled law on the issue of quashing of criminal proceedings.

20. In the case of ***State of Haryana v. Bhajan Lal***, 1992 Supp (1) SCC 335, the Hon'ble Supreme Court had set out the broad categories of cases in which the inherent powers of the Court could be exercised for quashing criminal proceedings. The relevant portion of the judgment is reproduced as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.



(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

21. The inherent powers of the Courts must be exercised sparingly and with great caution. From the above said judgment, it is clear that the Court may quash a complaint under Section 482 of the CrPC if it is satisfied that the allegations made against the accused in the complaint, even when they are taken at face value and accepted in their entirety, do not *prima facie* constitute



any offence or make out a case against the accused. Further, the Court may also invoke its extraordinary powers to quash a complaint if the allegations made in the complaint are so absurd and improbable that no prudent person may reach a conclusion that there is sufficient ground for proceeding against the accused.

22. It is the petitioner's case that the instant complaint is malicious in nature and is based on frivolous allegations made against her. At this stage, this Court has to determine whether a *prima facie* view can be taken that a case is made out against the accused for the commission of an offence if the allegations made in the complaint are taken at face value.

23. On the said date of the incident which led to the filing of the instant complaint against the petitioner, the respondent no.2 along with other parents went to the office of the petitioner and it is alleged in the instant complaint that when the petitioner could not answer the questions posed by the parents of the pupils, she threatened the respondent no.2 and other parents of implicating them in a false case. It is further alleged that the petitioner subsequently left the office where the said discussion was taking place and ordered the guards to physically assault the respondent no.2 along with other parents, pursuant to which the guards ultimately locked the respondent no.2 and other parents inside the room.

24. When the allegations are taken at their face value in the instant complaint, it is prudent to observe that the respondent no.2 was allegedly subjected to wrongful confinement and criminal intimidation in the office of the petitioner on the said date of the incident. Therefore, it cannot be said that



the allegations in the present case are absurd and inherently improbable to conclude that there are insufficient grounds to proceed against the petitioner.

25. Without going further into the merits of the case, this Court is inclined to hold that there is a *prima facie* case made out against the petitioner, which must be decided in the trial pending before the Court concerned.

26. In view of the above, this Court does not find it to be a fit case to exercise its inherent powers under Section 482 of the CrPC and therefore, the instant petition to set aside the impugned order and quash the proceedings in the Complaint Case No. 20445/2016 at Police Station - Anand Parbat, Delhi, stands dismissed and the impugned order is upheld. Accordingly, the stay granted on proceedings in the above mentioned Complaint Case pending before the learned MM, Tis Hazari Court, Delhi, stands vacated.

CHANDRA DHARI SINGH, J

DECEMBER 20, 2024

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Click here to check corrigendum, if any