



2023:JHHC:6751

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Revision No. 951 of 2022

Sanju Devi Petitioner
Versus
1.The State of Jharkhand
2.Archana Singh
3.Namita Devi
4.Reshmi Devi @ Rashmi Devi Opp. Parties

CORAM: HON'BLE MR. JUSTICE NAVNEET KUMAR

For the Petitioner : Mr. Gautam Kumar, Advocate
For the State : Mr. Subodh Kumar Dubey, Addl.P.P.

Order No. 03: Dated: 21st February, 2023

Heard, learned counsel appearing on behalf of the petitioner, and learned Addl.P.P. appearing on behalf of the State.

This Criminal Revision Application is directed against the order dated 21.07.2022 passed by learned Spl. Judge, ST/SC, Dhanbad in C.P. Case No.2424 of 2021 (SC/ST Case No.66 of 2019] whereby and whereunder the Complaint Petition filed by the petitioner was dismissed under Section 203 of Cr.P.C. on the ground that no *prima-facie* case is made out against the O.P. Nos. 2 to 4 namely, Archana Singh, Namita Devi and Rashmi Devi for the offences punishable under Sections 323 and 504 of IPC and under Section 3(vii)(x) of SC/ST Act.

Learned counsel appearing on behalf of the petitioner submitted that the allegations as set out in the said C.P. Case No.2424 of 2021 was that complainant was housewife and her husband was running a laundry for livelihood and there was selection of *Poshan Sakhi* going on in Jhoparpatti Mahuda and the C.D.P.O., Baghmara, namely, Archana Singh (O.P. No.2) illegally selected Namita Devi, who belongs to another *Poshan* Area (157) and when the matter was published in Prabhat Khabar and Ranchi Express newspapers, then Archana Singh, Namita Devi, mother-in-law of Namita Devi along with 4 to 5 other persons came to the house of the complainant and



abused the complainant for publishing the matter in the newspapers and threatened her with dire consequences and assaulted her and thereafter the complainant submitted a complaint in the Chief Minister Jan Sanvad and in the Secretariat and on 27.06.2019, she went to C.D.P.O. Office, Baghmara and having seen the complainant the said Archana Singh abused the complainant by calling her *Harijan-Dhobi* and became aggressive to assault her. It has further been alleged in the complaint petition that *Poshan Sakhi* must be a permanent resident of the Village where the Anganbari Kendra was situated, but Namita Devi was selected in violation of the rule, as she does not belong to *Poshan* Area No.125, rather she belonging to *Poshan* Area No.157.

Learned counsel appearing on behalf of the petitioner has further pointed out that the complainant had lodged on 21.07.2019, Mahuda P.S. Case No.42 of 2019 [SC/ST Case No.66 of 2019] in which Final Report (FRT) was submitted and notice was sent to the complainant, but due to CORONA, she was not allowed to enter into the court and therefore, she could not be present in the court and when the court re-opened, she was informed that the case has been closed. On 21.09.2021, when the Complainant went to Baghmara Block, the said Archana Singh had threatened her with dire consequences due to which the complaint and her family members were living in fear and thereafter the complainant filed the present complaint petition on 09.10.2021, which was registered on 18.10.2021 and vide impugned order dated 21.07.2022 the said complaint was dismissed.

In support of the contentions, learned counsel appearing on behalf of the petitioner relied upon the rulings of the Hon'ble Supreme Court in the case of *Fiona Shrikhande vs. State of Maharashtra and another*, reported in **2013 (14) SCC 44**.

It has further been pointed out that learned court below did not apply in its judicial mind properly and without appreciating the statement of the complainant on S.A. and without taking into



consideration the statement of the three enquiry witnesses namely, Vinda Devi, Dharmendra Bhuiyan and Manoj Kumar Rajak, the complaint petition was dismissed and finding that there was no sufficient ground available on record to proceed against them and therefore, this Criminal Revision Application has been filed.

On the other hand, learned Addl.P.P. submitted that on earlier occasion, the complainant had also filed a police case vide Mahuda P.S. Case No.42 of 2019 [SC/ST Case No.66 of 2019] dated 21.07.2019 and after completion of the investigation, the I.O. has submitted that the final report as lack of evidence and found the dispute alleged was of civil nature of dispute and thereafter the final report was accepted and then the fresh complaint petition has been filed by the petitioner.

Having heard both the parties, perused the record of this case.

It is admitted case of the complainant that Complainant, Sanju Devi had filed one Mahuda P.S. Case No.42 of 2019 [SC/ST Case No.66 of 2019] dated 21.07.2019, which was registered on the basis of the written report of the petitioner against three accused persons, who are O.P. Nos.2 to 4.

It is further found that I.O. after completing the investigation had submitted final report bearing Final Form No.25 of 2021 dated 28.02.2021 as lack of evidence and found that the offence alleged was of a civil dispute and that final report was accepted vide order dated 08.07.2021.

It is further found from the record that petitioner did not file any protest petition against the final report submitted by the police and after the lapse of considerable period of time, a fresh complainant petition was filed on 18.10.2021 where the learned court below conducted the enquiry after recording the statement of the complainant/ petitioner on S.A. and examined the three enquiry witnesses, namely, E.W.-1 (Vinda Devi on 29.03.2022), E.W.-2 (Dharmendra Bhuiyan on 02.05.2022) and E.W.-3 (Manoj Kumar Rajak on 01.06.2022 under Section 202 of Cr.P.C and finding that no



sufficient materials available on record to make out *prima facie* case against the O.P. Nos.2 to 4.

It is further found that the complainant was the housewife and her husband was running a laundry shop for their livelihood.

It is also found that the Government official namely, Archana Singh, C.D.P.O office, Baghmara had selected Namita Devi as *Poshan Sakhi* and the complainant was not selected as *Poshan Sakhi* and therefore, it was alleged that the said C.D.P.O. Office, Baghmara, Archana Singh had illegally selected the *Poshan Sakhi*.

It is further found that when the complainant/petitioner was not selected as *Poshan Sakhi* in Jhoparpatti Mahuda by the said C.D.P.O. then the news was published in Prabhat Khabar and Ranchi Express daily newspaper and then it is alleged that the said C.D.P.O., Archana Singh and another person, who was selected as *Poshan Sakhi*, namely, Namita Devi and her mother-in-law came to the house of the Complainant and used the abusive languages and also threatened her with dire consequences and it was also alleged that complainant/petitioner was assaulted and thereafter the complainant/ petitioner made complain before the Chief Minister Jan Sanvad and in the Secretariat, but no attention was paid and then he again went to the office of the C.D.P.O., Baghmara where it was alleged that she was abused by taking the name of her caste namely, *Harijan-Dhobi* by said Archana Singh, who became aggressive for causing assault. It was alleged that the selection of Namita Devi was completely erroneous because she was not resident of that area and she was belonging to another area.

In the backdrop of the aforesaid allegation it is found that learned court below examined the complainant and the statement of the complainant/petitioner was recorded on solemn affirmation (S.A.) where it is found that petitioner was the candidate of *Poshan Sakhi* in Jhoparpatti Mahuda and the advertisement was published in the year, 2016 and Archana Singh (O.P. No.2) was posted as C.D.P.O.,



Baghmara and it was further stated that she was not aware about the appointing authority of the said post and she stated that said Namita Devi was working at *Poshan Sakhi* after selection since two years and she has only been selected out of 14 candidates. Witness Vinda Devi never saw Archana Singh and she was not able to say about the facts of this case and similarly E.W.-3 (Manoj Kumar Rajak) who was running a laundry shop and he stated that Namita Devi was already selected.

The learned court below has rightly appreciated the fact that the complainant was aggrieved with the process of selection inasmuch as she was not selected as *Poshan Sakhi* and therefore, it is founded on the face of it that no *prima facie* case is made out and there is no sufficient material to proceed with the case against the O.P. Nos.2 to 4.

The learned court below has rightly pointed out that the offence of atrocities under SC/ST Act is made out only against the person who is not the member of the SC and ST and the complainant ought to have alleged that three accused were not a member of Scheduled Caste or Scheduled Tribe and further complainant was intentionally and knowingly intimidated by the proposed accused persons with an intent to insult/tease at a place within public view and therefore, the basic ingredients of the offence were missing in this case.

From the aforesaid facts it is found that the petitioner is aggrieved with the process of selection for the post of *Poshan Sakhi* and therefore, the possibility of false implication under the pretext of the SC/ST Act cannot be ruled out.

Learned court below has rightly come to the conclusion that the complaint filed by the petitioner is totally false and fabricated and continuation with the criminal proceeding against the O.P. Nos.2 to 4 would be an abuse of the process of law and therefore, in absence of any sufficient materials to proceed with the case against the O.P. Nos.2 to 4 and also in absence of any *prima facie* case against the proposed



2023:JHHC:6751

-6-

accused persons, the complaint petition filed by the petitioner was rightly and lawfully dismissed under Section 203 of Cr.P.C. The case relied upon by the petitioner does not apply under the facts and circumstances of the present case.

Accordingly, the instant Criminal Revision Application is dismissed being devoid of merit.

(Navneet Kumar, J.)

R.S./-