

Vijay Lata vs Rajiv Arora on 12 January, 2021

Equivalent citations: AIRONLINE 2021 P AND H 304

Author: Alka Sarin

Bench: Alka Sarin

CRM-M-43025-2020

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-43025-2020

Date of Decision:12.01.2021

Mrs. Vijay Lata

.....Petitioner

Versus

Sh. Rajiv Arora

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mrs. Vijay Lata, petitioner in person.

ALKA SARIN, J.

This is a petition under Section 340 read with Section 195(1)(b)(i) of the Code of Criminal Procedure, 1973 for granting sanction to initiate criminal proceedings against the respondent for the offence of knowingly filing a false affidavit (perjury) in CWP. No.1986 of 1993, cheating, forgery and defamation and for directing the Chief Judicial Magistrate, Kurukshetra for further proceeding in Criminal Complaint No.231 of 2003.

The facts of the case disclose how the criminal justice system is being clogged with unnecessary litigation and how the Courts are being burdened with cases which have already attained finality, even during trying times. The petitioner has approached this Court for the fifth time for seeking the same relief under the same provisions of law by cleverly re-wording some portions of her petition. She has been unsuccessful on the earlier four occasions.

1 of 10 The facts have been culled out from the order dated 16.03.2020 (Annexure P-26) passed by this Court in CRM-M-10355-2020. The present petition itself is vaguely worded and the petitioner has, for reasons best known to her, concealed several orders passed by this Court as well as the civil court.

The petitioner had challenged her discontinuation/termination as a Lecturer in Kurukshetra University by filing CWP No.1986 of 1993 in this Court. The respondent, who was Registrar of Kurukshetra University, filed a written statement in the said CWP No.1986 of 1993. Vide order dated 19.03.1993 (Annexure P-9) CWP No.1986 of 1993 was dismissed by a Division Bench of this Court. The petitioner filed an application praying for recalling the order dated 19.03.1993 but the said application was dismissed on 02.04.1993 (Annexure P-13). The petitioner challenged both the orders dated 19.03.1993 and 02.04.1993 before the Supreme Court of India. However, vide order dated 10.08.1993 (Annexure P-14) her SLP was dismissed. These proceedings have, thus, attained finality.

The petitioner thereafter filed Civil Suit No.186 of 1994 seeking a decree of declaration and a consequential decree of mandatory injunction to the effect that her services should not have been terminated and that she be reinstated, challenging therein also the appointment of one Naresh Kumar in her place. That civil suit was dismissed and the appeal against the said dismissal was withdrawn on 19.12.1997, with permission to file a fresh civil suit. The subsequent fresh civil suit was also dismissed and the appeal filed against the judgement and decree of the Trial Court was dismissed on 14.05.2002. The judgements and decrees passed by the Trial Court and the Appellate Court have not been attached with the present petition.

2 of 10 Having been unsuccessful in the proceedings initiated by her on the civil side, the petitioner then set in motion a series of proceedings on the criminal side.

In 2003 the petitioner filed a complaint under Section 340 CrPC before the Chief Judicial Magistrate, Kurukshetra against the respondent and others where she averred that the accused had made false averments in CWP No.1986 of 1993 because of which her said writ petition was dismissed. Vide order dated 26.05.2007 (Annexure P-25) this complaint was dismissed inter- alia on the ground that since the reply, which the petitioner alleged to be false, had been filed before the High Court, the Chief Judicial Magistrate, Kurukshetra could not take cognizance of the offence under Section 195 CrPC. The petitioner filed an appeal (CRA-S-1376-SB-2007) against that order which appeal was withdrawn on 26.03.2008. The order dated 26.03.2008 passed by this Court has not been attached with the present petition. Infact, the present petition is completely silent regarding the filing and fate of CRA-S-1376-SB- 2007.

The petitioner then filed the first petition in this Court being Criminal Miscellaneous No.M-46849 of 2007 in CWP No.1986 of 1993 under Section 340 CrPC with a prayer that the respondents be tried, convicted and sentenced for filing, wilfully, a false affidavit in CWP No.1986 of 1993. This petition was dismissed on 27.09.2010. The order dated 27.09.2010 passed by this Court has not been attached with the present petition. Infact, the present petition is again completely silent regarding the filing and fate of Criminal Miscellaneous No.M-46849 of 2007 in CWP No.1986 of 1993.

On 30.10.2010 the petitioner filed the second petition in this Court being CRM-M-32437-2010 under Section 340 read with 482 CrPC for granting sanction for prosecution of the respondents for offences under Sections 193, 3 of 10 204, 420, 468 and 500 read with Section 34 of IPC. The present respondent was arrayed as respondent No.2 in this petition. This petition was dismissed on 12.07.2011. The order dated 12.07.2011 passed by this Court has not been attached with the present petition. Infact, the present petition is again completely silent regarding the filing and fate of CRM-M-32437-2010. The order dated 12.07.2011 is available on the High Court website and inter-alia reads as under :

"It may be added that prima facie, the affidavit filed by respondent No.2 in the writ petition cannot be said to be false because the resolution of the University was produced in the writ petition and the same was perused by this Court and it was thereafter that the writ petition was dismissed. Petitioner even approached the Hon'ble Apex Court in that case but petition for special leave to appeal filed by the petitioner was also dismissed by Hon'ble Supreme Court. Consequently, it cannot be said that any offence as alleged by the petitioner was prima facie committed by the respondents by filing the aforesaid affidavit in the writ petition.

For the reasons aforesaid, I find no merit in the instant petition, which is completely misconceived. Accordingly the petition is dismissed. The petitioner is advised to desist from generating such unnecessary litigation".

On 21.03.2017 the petitioner filed a complaint in the Court of the Special Judge appointed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 alleging therein that despite the Executive Council of the Kurukshetra University having approved in its meeting held on 25.01.1991 that she be appointed as a Lecturer in the Department of 4 of 10 Psychology, her services had been terminated, intentionally and dishonestly, by violating the rules of Kurukshetra University, without giving any notice to her and therefore, since she belongs to a scheduled caste, an offence punishable under the said provisions had been committed. This complaint was dismissed on 07.08.2018. The order dated 07.08.2018 passed by the Court has not been attached with the present petition. Infact, the present petition is again completely silent regarding the filing and fate of the complaint under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

On 31.10.2018 the petitioner filed the third petition in this Court being CRM-M-48956-2018 under Section 340 CrPC seeking that "charges for knowingly filing false affidavit (perjury held) in CWP No.1986 of 1993 (in the last line of para No.6 of the written statement of respondent that the overall performance report of the petitioner was POOR ...". The present respondent was arrayed as a respondent in this petition. This petition was dismissed on 07.12.2019. The order dated 07.12.2019 passed by this Court has not been attached with the present petition. Infact, the present petition is again completely silent regarding the filing and fate of CRM-M-48956-2018. The order dated 07.12.2019 is available on the High Court website and inter-alia reads as under :

"Consequently, the essential grievance of the petitioner in this petition being that the writ petition initially filed by her, i.e. CWP No.1986 of 1993, having been dismissed

on account of a false written statement having been filed in court, and of course in addition she stating (in this petition) that the report on her poor performance was deliberately obtained only so that her services would not be regularized, yet the writ petition itself having been dismissed, with the SLP filed against that order 5 of 10 also having been dismissed, and her grievance as regards any false written statement/affidavit etc. having been dismissed upon her invoking jurisdiction under Section 340 of the CrPC twice earlier too, this petition is held to be not maintainable before this court and is consequently dismissed. No costs are being imposed upon the petitioner, simply keeping in view the fact that she has appeared in person and is obviously harassing herself also enough, time and again".

On 05.03.2020 the petitioner filed the fourth petition in this Court being CRM-M-10355-2020 under Section 340 CrPC praying that "charges for knowingly filing false affidavit (perjury held) in CWP No.1986 of 1993 (in the last line of para No.6 of the written statement of respondent that the overall performance report of the petitioner was POOR ...". The present respondent was arrayed as a respondent in this petition. This petition was dismissed on 16.03.2020 (Annexure P-26).The order dated 16.03.2020 inter-alia reads as under :

".....The original judgment dismissing the petitioner's last CRM No.M- 48956 of 2018, vide the detailed order passed on 07.12.2019, in the circumstances remains intact and fully operative, on account of which, the present petition seeking the same relief is not tenable.

In such circumstances, the present petition is found to be manifestly non-maintainable. The petitioner, on the other hand, would appear to be liable for being penalized for wasting the precious judicial hours of this Court on such a flimsy petition. But, she is let off this time, in view of the fact that, firstly, she is 6 of 10 a woman, and secondly, she is presumed to be not well-versed with the intricacies of the procedural law. She would be well advised to file her next round of litigation only by engaging some competent professional for that purpose, if she so chooses".

On 17.12.2020 the petitioner filed the present fifth petition in this Court under Section 340 CrPC praying for "granting sanction to initiate the criminal proceeding for the offences for knowingly filing false affidavit (perjury held) in CWP No.1986 of 1993 (in the last line of para No.6 of the written statement of respondent that the overall performance report of the petitioner was POOR ...". No mention has been made about her first, second and third petitions filed in this Court under Section 340 CrPC or the orders passed therein. About the fourth petition (CRM-M-10355-2020) and the order passed therein in para 14 of the present petition it is averred "An earlier petition (CRM-M) No.10355 of 2020 under Section 340 read with 195(1)(b) of Criminal Procedure Code was dismissed by the Hon'ble High Court on dated 16.03.2020, due to technical defect of legal procedure (due to wrong prayer as per Section 195 of CrP Code). The copy of this order is as Annexure P/26".

A perusal of the above narrated facts would make it clear that the petitioner has already unsuccessfully knocked on the doors of this Court several times by invoking the provisions of

Section 340 CrPC. The petitions have either been for charging the respondent for knowingly filing a false affidavit or for granting sanction to initiate criminal proceedings against the respondent for knowingly filing a false affidavit. This Court has not granted the petitioner any relief in her earlier petitions. Infact, this Court has held back from imposing costs on the petitioner for filing frivolous petitions. The issues being raised by the petitioner in the present petition have already attained 7 of 10 finality, not once but several times over. The present proceedings must be labelled as nothing more than an abuse of the process of the Court particularly in view of the fact that with respect to the same subject-matter several similar petitions had already been filed by the petitioner against this very respondent which were all dismissed. The earlier orders passed by this Court declining any relief to the petitioner in her petitions filed under Section 340 CrPC still hold good and have not been set aside by the Supreme Court. The present petition seeking the same relief on the same cause of action is not maintainable.

The Court cannot also but express its dismay at the manner in which the petitioner has repeatedly been filing petitions under Section 340 CrPC on the same cause which gives an impression that she is indulging in 'bench hunting' which has to be deprecated in the strongest possible words. Though the principles of res judicata and such analogous principles are not applicable in a criminal proceeding, still the Courts are bound by the doctrine of judicial discipline having regard to the hierarchical system prevailing in our country. The findings of a higher Court or a Coordinate Bench must receive serious consideration at the hands of the Court entertaining a similar petition at a later stage when the same had been rejected earlier. In 'Kalyan Chandra Sarkar vs. Rajesh Ranjan' [(2005) 2 SCC 42] the Supreme Court observed that "Ordinarily, the issues which had been canvassed earlier would not be permitted to be reagitated on the same grounds as the same would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting".

Four Coordinate Benches of this Court have found that no inquiry under Section 340 CrPC is called for in relation to the written statement filed in CWP No.1986 of 1993 and this Court does not find any material on record to permit the petitioner to reagitate this issue. The present petition is on identical 8 of 10 facts and the core of the present petition as well as the earlier petitions is identical. Apart from the averments made in the present petition and the earlier petitions, even Annexures P-1 to P-24 attached with the present petition are also attached as Annexures P-1 to P-24 in the earlier petitions being CRM-M- 48956-2018 and CRM-M-10355-2020, whose paperbooks have been accessed on the website of the High Court. Thus, this Court finds no justifiable reason to entertain the present petition.

Further, the petitioner has concealed from this Court several orders passed by this Court as well as other Courts. She has not come to Court with clean hands. It is well settled that litigants who, with an intent to deceive and mislead the Courts, initiate proceedings without full disclosure of facts, such litigants have come with unclean hands and are not entitled to relief. In 'Dalip Singh vs. State of Uttar Pradesh &Ors.' [(2010) 2 SCC 114] the Supreme Court observed that:

"In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by

this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final".

Even the averment by the petitioner that her earlier CRM-M- 10355-2020 was dismissed due to a technical defect of legal procedure due to wrong prayer as per Section 195 of CrPC is also incorrect and false.

9 of 10 In view the discussion above, the present petition is held to be not maintainable and is dismissed with costs. Costs are being imposed since precious judicial time, during the Covid-19 Pandemic, has been wasted on an issue which already stands decided against the petitioner on four earlier occasions. Costs of Rs.25,000/- be deposited with the 'Haryana Corona Relief Fund'.

12.01.2021 (ALKA SARIN) JUDGE NOTE: Whether speaking/non-speaking: Speaking Whether reportable: YES/NO 10 of 10