

(2009) 04 DEL CK 0001

In the Delhi High Court

Case No : Criminal M.C. No's. 5476-85 and 5486-88 of 2006 and Criminal M.A. No's. 9374 and 9376 of 2006

Sangeeta Paul and Others

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

Citation : (2009) 04 DEL CK 0001

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : D.C. Mathur, Rekha Palli and Vikram Panwar, for the Appellant; Pawan Behl, APP and Naresh Kaushik, for the Respondent

Judgement

S. Muralidhar, J.—These two petitions arise from the same set of facts and are accordingly disposed of by this common judgment.

2. CrI.M.C. No. 5476-85 of 2006 seeks the quashing of Complaint Case No. 21/3 of 2006 titled "Shobha Upadhaya v. Sangeeta Paul and Ors." pending in the court of learned Metropolitan Magistrate ("MM") New Delhi under Sections 323/392/341/354/504/509/506/511/120B IPC and all proceedings consequent thereto.

3. CrI.M.C. No. 5486-88 of 2006 seeks the quashing of Complaint Case No. 19/3 of 2006 titled "Shobha Upadhaya v. Sangeeta Paul and Ors." pending in the court of learned MM New Delhi under Sections 341/379/465/471/506/120B IPC and all proceedings consequent thereto. Complaint Case No. 19/3 of 2006.

4. Complaint Case No. 19/3 of 2006 was filed on 28th March 2006 by the Shobha Upadhyay (Respondent No. 2 in CrI. M.C. No. 5486-88 of 2006) against Sangeeta Paul, Principal, Deep Public School, Deep Verma, its Chairman, and Prakash Verma, son of Shri Deep Verma (Petitioners 1 to 3 respectively in CrI. M.C. No. 5486-88 of 2006). The case of the complainant was that she was a Trained Graduate Teacher in Deep Public School, Sector-D, Block-II, Vasant Kunj, New

Delhi. She was appointed as a teacher on 27th August 1996 and was working in the said School on regular basis. It was alleged that the complainant raised an objection with the school authorities that she was not being paid salary according to the rules. She made a complaint to the National Commission for Women (? NCW?) on 29th April 2005. In respect of the said complaint a notice was issued by the NCW to K.P.Singh, Director of the School. On 23rd June 2005 the complainant gave a further complaint to the NCW that the accused persons in connivance with each other had threatened the complainant to withdraw the complaint filed by her before the NCW. They also threatened the complainant that they would issue her memos on fabricated issues and humiliate her by appointing another teacher. Accused No. 2 Deep Verma threatened that the accused would assassinate the character of the complainant as well as her daughters. The complainant also gave a written complaint to the SHO, Vasant Kunj vide DD entry No. 1567 dated 6th July 2005. However, no action was taken.

5. The complaint further stated that on 4th July 2005 the School reopened and on 6th July 2005 Accused No. 2 Deep Verma orally informed the complainant that she was not required in the school any more. On 7th July 2005 when the complainant reached the school she was not allowed by the gate keeper to enter. He informed her that accused 1 and 2 had directed him not to allow the complainant to enter the school. Because it was raining heavily on 7th July 2005 the complainant could not say anything. However on 8th July 2005 when she again tried to enter the school, she was prevented. Consequently, she gave a complaint to the police on the phone and with the help of the policemen in the nearby PCR she was able to enter the school and register her presence. Another complaint was made in regard to the above incident on 9th July 2005.

6. It is stated in para 11 of the complaint that accused persons in connivance with each other created a false resignation letter dated 4th July 2005 purportedly given by the complainant. The Education Officer in the Office of the Deputy Director of Education, Zone-20, District South West (A), Vasant Vihar, New Delhi wrote a letter to the complainant asking her to clarify that the signature on the alleged resignation letter was hers. The complainant claims to have explained the real facts to the Deputy Director on 13th July 2005. She showed the letters addressed by her to the Deputy Commissioner of Police ("DCP") and SHO on 9th July 2005. In regard to the above incident the complainant also made a complaint to the Deputy Director of Education, Government of NCT of Delhi, the NCW and other authorities. She made a complaint to the DCP regarding the forging of the documents by the accused persons on 8th August 2005. This was followed by a complaint to the Commissioner of Police on 31st August 2005. When no action was taken on the aforementioned complaints, she filed Writ Petition (Crl.) No. 14165 of 2005 before this Court. This Court directed accused No. 1 Sangeeta Paul and accused No. 2 Deep Verma to allow the complainant to join her duties. Pursuant thereto, the complainant joined duty on 6th September 2005 but found that her lock on the locker had been removed and her books and folders were missing. She made a complaint in this regard to the SHO, PS Vasant

Kunj and DCP, Vasant Vihar on 8th September 2005.

7. On the basis of the above averments the complainant prayed in Complaint Case No. 19/3 of 2006 that the accused be summoned by the learned MM for the offences under Sections 341/379/409/420/468/471/506/511/120B IPC. The trial court record shows that on the first date, i.e. 28th March 2006, the learned MM called for an action taken report from the concerned Station House Officer (SHO) and adjourned the case to 7th April 2006. On the next date it was recorded by the learned MM that the SHO/Investigating Officer (IO) Narender Singh had filed the action taken report along with a photocopy of the report of the Forensic Science Laboratory (FSL). The learned while adjourning the case to 26th April 2006 recorded the submission of the IO that a further report had been sought from the FSL and its further report was awaited. The order recorded the presence of the complainant.

8. At the hearing of the aforementioned Complaint Case No. 19/3 of 2006 before the learned MM on 27th April 2006, it was submitted on behalf of the Complainant that the documents on which the alleged signatures of the complainant have been forged could not have been sent to the FSL for examination without an FIR being registered and therefore a direction to that effect should be issued. Disagreeing with this submission the learned MM ordered that cognizance be taken of the offences and further directed that the case be listed on 2nd May 2006 for the complainant's evidence. On the adjourned date the complainant was examined and the pre-summoning evidence was closed. It appears that thereafter the further report dated 15th May 2006 of the FSL was received. The submission of the complainant that the further report of the FSL could not have been procured by the police without an FIR being registered was noted by the learned MM at the hearing on 30th May 2006.

9. Thereafter on 21st July 2006, the following order was passed by the learned MM in Complaint Case No. 19/3 of 2006:

21.07.06 Present: Complainant with Counsel Sh. Vishwender Verma. I have heard the pre-summoning arguments in details and perused the records carefully.

The allegations against the accused persons are that they malafidely used the signatures of the complainant to create a false/forged resignation letter dated 4.7.05 of the complainant whereas the complainant never intended to resign. The complainant alleges that this was done as she had protested the unlawful methods of the accused persons in respect of payment of salary. It is alleged that when she reached the school on 7.7.05 she was not allowed to enter the school whereas she had the right to do so in capacity of being a teacher in the school. The complainant also avers that certain books of the library, personal book of the complainant and the folder of the complainant containing communication with the school about the irregularities were stolen from her lock up. Complainant examined herself as witness. I have also perused the action taken report filed by the SHO. In the facts and circumstances of the case, the court is convinced that

there is sufficient material on record to summon the accused persons u/s 341/379/465/471/506/120B. Issue summons against the accused persons on filing of the PF/RC/AD/Courier to be filed within a week. Dasti be given, if desired. Put up on 7.9.06.

Complaint Case No. 21/03 of 2006

10. Five days after the first FSL report was filed in the court of the learned MM in Complaint Case No. 19/3 of 2006, the complainant filed another criminal complaint being Complaint Case No. 21/3 of 2006 against Sangeeta Paul, Principal, Deep Public School, Deep Verma, its Chairman, and Prakash Verma, son of Shri Deep Verma, K.P.Singh, Director, Har Haran, Watchman, Neeraj, Accountant, P.V. Kale, Physical Training Inspector, Jagdeep, Office Assistant and Abhai, Physics teacher of Deep Public School (arraigned as accused No. 1 to 10 in the complaint and Petitioner Nos. 1 to 10 in CrI.M.C. No. 5476-85 of 2006 respectively).

11. Interestingly paras 1 to 18 of Complaint Case No. 21/03 filed on 12th April 2006 are a virtual reproduction of paras 1 to 19 of Complaint Case No. 19/3 of 2006. Para 19 then states that in relation to those incidents the complainant had already filed a separate complaint. Thereafter paras 20 to 26 talk about an incident of 25th March 2006. According to the complainant on that day she was called by accused Nos. 1 to 4 at around 11 to 11:30 am. They suggested to her that she should withdraw the case before the High Court. They again called her at 12:15pm and asked her to sign some papers which she refused. At 12:30 pm when the complainant tried to get an acknowledgement of her leave application, accused No. 1 delayed in so. At around 12:40 pm when the complainant after taking the acknowledgement went to the gate of the school, the accused Nos. 5 and 6 locked the gate and prevented the complainant from leaving stating that they were acting under the directions of accused Nos. 1 and 3.

12. Paras 23 to 26 of the complaint (No.21/3 of 2006) read as under:

23. That immediately thereafter accused No. 3, 4 and 7 to 10 surrounded the complainant around the gate. Thereafter, accused No. 1 came and abuse the complainant and called her bitch. The accused No. 1 abetted the other accused and told them to teach a lesson to the complainant for the life time. The accused persons dragged the complainant towards the backside of building. The accused No. 8 pushed the complainant, accused No. 9, hold the hands of the complainant and accused No. 10 roughed the shoulders of the complainant. The accused No. 3 and 7 snatched the purse of the complainant and accused No. 3 switched off the mobile after opening the purse. The accused persons illegally locked the complainant in the school building. The accused No. 3 and 8 pushed the complainant and when she fell down the accused persons No. 3 snatched the saree of the complainant.

24. That any how the complainant got succeed to save herself and rushed to the bank building and dialed No. 100 from their to the police.

25. That the PCR came and on they reached the school and the complainant also called her cousin Mr. Shishir Dube. He also made 7-8 calls to the Crime Against Women Cell.

26. That the daughter of the complainant also made call to the police and PCR save the complainant, but it is surprising that no FIR has been lodged in this matter.

13. On the aforementioned complaint the learned MM passed an order on 12th April 2006 calling for an action taken report (ATR) from the police. On 20th April 2006 after the ATR was filed the learned MM took cognizance of the offence and listed the complaint for complainant's evidence on 21st April 2006. However, on an application filed by the complainant CW1 was examined on 20th April 2006 itself. The complainant was examined as CW 2 on 1st June 2006. Thereafter following order was passed by the learned MM in Complaint Case No. 21/03 of 2006 on 21st July 2006:

21.7.2006 Present: Complainant with Counsel Sh.Vishwender Verma. I have heard the pre-summoning arguments in details and perused the records carefully. The case of the complainant is that already a complaint case bearing No. 19/03 is pending against the accused persons for forging a resignation letter bearing signature of the complainant, for restraining her from entering the school premises, intimidating her and committing theft from her school locker. It is now further alleged that the accused No. 1 & 4 pressurized her to withdraw a case against them filed by her in the Hon'ble High Court of Delhi. When she went to have acknowledgment of her leave application on 25.03.06, she was abused by accused No. 1, 3, 4 & 7 to 10 the accused persons dragged her towards the back site of the building. She was pushed back, her hands were held by the accused forcibly and was roughed up. Accused No. 3 & 7 snatched the purse of the complainant and switched off her mobile. On being pushed, the complainant fell down and accused No. 3 snatched her sari. Somehow, the complainant could escape from their clutches. The complainant examined herself as CW-2 and examined Sh. Shishir Dubey as CW-1.

In the facts and circumstances of the case, the court is convinced that it is a fit case for summoning the accused persons u/s 323/341/354/357/506/120B IPC. Issue summons against the accused persons on filing of the PF/RC/AD/Courier to be filed within a week. Dasti be given, if desired. Put up on 7.9.06.

14. It may be noted at this stage that although Complaint Case No. 19/03 of 2006 was filed on 28th March 2006, it makes no reference whatsoever to the incident of 25th March 2006. The said incident is referred to only in the subsequent complaint filed on 12th April 2006. The latter complaint makes no reference to the ATR and FSL report filed in the earlier complaint on 7th April 2006 although the complainant was present in the court of the learned MM at that time. The present petitions.

15. The present petitions seeking the quashing of the aforementioned complaints

were listed before this Court on 6th September 2006. While directing notice to issue, this Court clarified that there would be no stay of the proceedings. However, the Petitioners were exempted from personal appearance before the trial court subject to being represented by an advocate. The said interim order has continued till date. Submissions of counsel.

16. It is submitted by Mr.Dinesh Mathur, learned Senior Counsel for the petitioners that in both complaints the complainant had made several false statements, and had distorted and suppressed material facts. It is submitted that the complainant had throughout created problems in the school and was guilty of several incidents of indiscipline which could not be tolerated in an educational institution. She has resigned from the services of the school on 4th July 2005. Mr. Mathur further pointed out that the NCW had found no merit in the complaint filed by the Respondent and this fact was wilfully suppressed by her in both the complaints. Her attempts at getting to show that the resignation letter was forged were unsuccessful as the FSL report did not support her case at all. She suppressed the fact that an enquiry had been conducted by the police and an ATR along with the copy of the aforementioned FSL report had been submitted in the court of the learned MM on 7th April 2006. Therefore it was false to allege that no action had been taken by the police. Importantly this fact, although known to the Petitioner, was not mentioned by her in her subsequent complaint filed on 12th April 2006. Further there was no valid explanation why in the complaint filed on 28th March 2006, there is no mention of the incident of 25th March 2006. Further, the complaint filed on 12th April 2006 makes no reference to the report of 25th March 2006 of the SI of Vasant Kunj police station who found that the allegations concerning the incident of 25th March 2006 were unsubstantiated. It is submitted that the complaints are an abuse of the process of law and ought to be quashed on that ground.

17. On behalf of the Respondent, Mr. Naresh Kaushik submits that there is sufficient material on the record to come to the view that there is a prima facie case made out against the accused for being summoned for the aforementioned offences. At the present stage while exercising its powers u/s 482 CrPC the Court only has to examine if there was sufficient material to summon the accused. Disputed question of facts ought not to be decided at the present stage. Mr. Kaushik submitted that the FSL report was not the last word on whether the resignation letter was forged. The subsequent clarification of the FSL shows that there was other aspect of the said letter which remains to be explained and this could be done only at the trial. The police report dated 25th March 2006 was inaccurate and therefore could not determine the issue. As regards the conclusion drawn by the NCW on the complaint of the respondent, it is submitted that this was not the subject matter of the present petitions and therefore could not be examined. Reliance is placed on the judgments of the Supreme Court in *State of Haryana and others Vs. Ch. Bhajan Lal and others*, , *J.P. Sharma Vs. Vinod Kumar Jain and Others*, , *M. Krishnan Vs. Vijay Singh and Another*, and *Kamaladevi Agarwal Vs. State of West Bengal and Others*, . Reliance is also

placed on the judgments of this Court in Dipika Lal v. Vipin Kumar Gupta 2008 7 AD (Del) 313 and Rakesh Sharma v. Mahavir Singhvi 2008 7 AD (Del) 461.

18. It may be mentioned that at one stage at the proceedings, this Court was informed that the parties may be willing to explore the possibility of a settlement. They were referred to the Delhi High Court Mediation & Conciliation Centre. However no settlement was arrived at and the learned Counsel for the parties argued the case finally on merits. Suppression of material facts

19. The first issue to be considered is whether the Respondent is guilty of suppression of material facts in the two complaints. Two complaint cases have been filed by the Respondent. Complaint Case No. 19/03 pertains to the alleged forgery of the resignation letter dated 4th July 2005. This complaint, although filed on 28th March 2006 makes no reference at all to the alleged incident of 25th March 2006. A reference to the said incident is made only in the subsequent Complaint Case No. 21/03 of 2006 filed on 12th April 2006. Barring the addition of paras 20 to 26 in the latter complaint, both complaints contain the same narration. There is absolutely no explanation forthcoming from the Counsel for the Respondent about the omission of the incident of 25th March 2006 in the complaint filed on 28th March 2006.

20. The complaints refer to the fact that the complainant made a representation dated 29th April 2005 to the NCW. They also refer to the reply of Petitioner No. 2 to the said notice. However, they make no reference whatsoever to the findings given on 17th August 2005 by the NCW on the said representation. This has been placed as Annexure F to the present petition and reads as under:

The National Commission for Women received a complaint from Mrs. Shobha Upadhyay on 17.05.2005, whereby she made out following grievances:

The school appoints less number of teachers than required for the school and puts teachers for extra duties of continuous 8 periods a day of standing job from 8.00 am to 2.30 p.m. The school pays lower salary in cash and obtains signature on higher amount. At the time of payment the register does not contain the month and date of payment.

Medical leave and LTA, are not paid. The school teachers are called to work on vacation without compensation for extra work. Working hours exceed the set norms. The principal of the school has been appointed by accepting and submitting fake experience certificate to education authorities. School through principal upon request for a fair treatment, starts harassment drive by misbehaving, discriminatory treatment, constant mental torture and allocation of harsh duties, repeated insults in the presence of students. As stated in the notice, copy enclosed, accordingly both the parties were summoned and heard from time to time as per order sheet. Both the parties were appeared before the commission and explained their stand. It was also brought in the notice of the commission that the complainant resigned on 4.7.2005, but the Commission did not approve this because at times a person takes such steps in hurried way

without realising the consequences, but the complainant herself said that she is not willing to work in the school. But, the Commission directed school authorities to keep her in service continuously for three months. Finally on 8.8.2005 in the presence of the Chairperson and other two Members, a settlement was arrived at between both the parties and the Commission accordingly directed the school Director to pay her 6 months salary and a good experience certificate, so that she may not suffer in future. With these direction the case was adjourned for 9th August, 2005.

Both the parties appeared before the Commission, the Director, Deep Public School brought a cheque of 6 months salary as directed by the Commission, but to utter surprise, the complainant changed her stand and did not agree to what had been agreed on 8.8.2005, in the presence of the Chairperson and the Members of the Commission to which she herself is a signatory. In order to help her, the Commission pressurized the school authorities to accept agreement/settlement of 8.8.2005. The commission has done best in whatever way to help her but she does not seem to be in a mood to settle the issue. The grievance petition dt. 17.5.05, was also examined by the Member but the same was found lacking merit. The Commission also took serious steps keeping in view the Complaint of the Complainant to have a better coordination between teachers and managing committees and to form a grievance redressal cell in the school itself so that problem of Teachers can be sorted out there itself. All the salaries should be paid by cheque and according to norms.

21. In her reply to para 3 (e) of the petition which refers to the aforementioned report of the NCW the Respondent states as under

(e) That the contents of para (e) are wrong and thus denied. It is submitted that the school authorities had threatened the answering respondent to settle the matter. Furthermore, the NCW was also hell bent and was pressurizing the answering respondent to settle the matter without even listening to the grievances of the answering respondent. But the answering respondent had never agreed for the settlement and had written a letter dated 08.08.2005 to the NCW requesting the authorities of the NCW to seize the forged resignation letter and send it for forensic examination. The answering respondent had never agreed for settlement with the petitioners. The copy of the letter dated 08.08.2005 of the respondent is annexed herewith and marked as Annexure-R/1.

(emphasis supplied)

22. The aforementioned paragraph shows that far from denying that the NCW gave the aforementioned report, the complainant has chosen to accuse the NCW of not giving her a fair hearing. Her suppression of the aforementioned report of the NCW, which was obviously in her knowledge, in both the complaints is inexcusable. This was a material which was against the complainant. The NCW held an enquiry on the matter and found against her. Those were the very allegations she was making in the complaints. In the considered view of the

Court, the suppression of the above material constitutes an abuse of the process of law.

23. That is not all. The complainant states that she made a complaint to the police about the alleged forgery of the resignation letter dated 4th July 2005. The said resignation letter reads as under:

To The Chairman,

Deep Public School D-II,

Vasant Kunj, New Delhi-70

Respected Sir,

This is to intimate you that due to personal problems I cannot continue with my job as (TGT-Biology) and hence I am submitting my resignation. You are requested to accept the same. Further this should be treated as a three-month notice. I would like to thank the School and Managing Committee for their kind co-operation.

Thanking You,

(Ms.Shobha Upadhyay)

24. It appears that on the said letter action was indeed taken by the police by referring the letter to the FSL. The report of the FSL dated 19th December 2005 indicated that the resignation letter was not forged. The conclusion in the said report reads thus:

There is no divergence observed between the questioned and standard signatures and the aforesaid similarities in the writing habits are significant and sufficient and cannot be attributed to accidental coincidence and when considered collectively they lead me to the above said opinion. On extensive and critical examination of the document marked "X" it is observed inter linear spacing between the lines and paragraphs on the document under examination is uneven and location of signature with respect to typing/printing is also at unusual place. As such possibility might be there that the signature marked Q1 was existing there prior to typing/printing of the context. However, no definite opinion could be expressed on this aspect.

25. It appears that the complainant objected the aforementioned report and sought a further opinion. The documents were again forwarded by the SHO, PS Vasant Kunj to the FSL on 10th March 2006 on the aspects referred to in the second paragraph aforementioned. The opinion dated 15th May 2006 of the FSL on the said enquiry reads as under:

I. It has not been possible to ascertain the age of paper, signature ink and printing ink existing on document marked "X".

II. It has not been possible to express any opinion about age of Printing ink on

date on right hand corner existing on Document marked "X".

III. It has not been possible to express a definite opinion regarding sequence of strokes of signature marked Q.1 and printing existing on document marked "X".

IV. It has not been possible to opine whether the document marked "X" was written and signed on the date indicated on it.

V. Though, there are two hole marks present at top left side which are indicated by arrows in red enclosed portion and several folds are also appearing on the document marked "X". But it has not been possible to say conclusively at which stage these arise. Though the size of paper of document marked "X" is shorter than the size of papers normally used in typing, etc. But it is not possible to opine whether the paper of document marked "X" is factory cut or picked up from somewhere by cutting.

VI. It has not been possible to opine that the entire document marked "X" was prepared sequentially over a period of time or otherwise.

VII. Opinion regarding queries mentioned against Q7 and Q8 have already been expressed vide FSL Report No. 2005/D-3759 dated 19.12.2005.

26. The above two reports of the FSL show two things. First, that the police did take action on the complaints made by the complainant and refer the document in question to the FSL not once but twice. Second, the allegation of the forgery of the signature of the Petitioner has not been substantiated by the FSL. It must be remembered that it is not the case of the Petitioner that her signatures were taken on some blank paper and the resignation letter was typed thereafter on top. If that was her allegation then the further clarification sought from the FSL would be relevant. However, her case throughout has been that her signature was forged. This has not been borne out by the report of the FSL.

27. Even before the complainant filed her second complaint on 12th April 2006, the above FSL report was available. In fact against the report dated 19th December 2005 she expressed her objection on the basis of which the police again referred the documents to the FSL. For the reasons best known to her she made no mention of this fact in her complaint filed on 12th April 2006. In the considered view of this Court this suppression of material fact is also an abuse of the process of law.

28. As regards the incident on 25th March 2006 an enquiry was indeed undertaken by SI Jarnail Singh of PS Vasant Kunj. His report of 25th March 2006 reads as under:

DD No. 64B Dated 25/03/2006 PS Vasant Kunj, South West Distt. New Delhi. SI Jarnail Singh Enquiry into the complaint of Smt. Shobha Upadhyay Time 11.00 AM is hereby mentioned for information that today i.e. 25/03/06 Smt. Shobha Upadhyay W/o Sh. Ashok Upadhyay R/o B-10/7052, Vasant Kunj, New Delhi, Age-45 yrs, a lady teacher employed in Deep Public School, D-2, Vasant Kunj,

New Delhi called the Police Vide PCR calls DD No. 29-A, 32-A, & 33-A, mentioning that she had been detained and tortured mentally by school officials. Emergency Officer-HC Lala Ram No. 409/SW attended these calls and enquired the matter initially. Smt. Shobha Upadhyay did not furnish her written complaint and asked him to write her statement. Her statement was recorded. She alleged in her statement that Sh. K.P. Singh, Director and Sangeeta Paul, Principal Deep Public School called her twice in their office around 11:00-11:30 AM and 12:15 Noon. They asked her to withdraw the court case and also asked her to write a wrong application. She was not allowed to go outside of the school premises and an attempt to snatch her purse was also made. Initially the calls were attended by HC Lala Ram No. 409/SW, and subsequently the matter was enquired by me. Following persons were examined. 1. Sh. K.P. Singh, Director 2. Smt. Sangeeta Paul, Principal 3. Smt. Nisha Jain, Receptionist 4. Sh. Hari Har Yadav, Guard 5. Sh. Vikram Singh, Water Carrier, 6. Neelam Sharma TGT Science Teacher 7. Sh. Shiva Kant Singh, Librarian. 8. Sh. Prabhu Kale, Physical Education Teacher. 9. Sh. Jagdeep Sharma, General Assistant. 10. Sh. Parvesh Kumar, PG-Teacher. Smt. Nisha Jain, Receptionist stated that applicant Smt. Shobha Upadhyay came to Reception around 12.00 Noon and asked her to show her the applications submitted by her on 22.03.2006 and 23.03.06. As she did so Smt. Upadhyay took applications from her asking that she would show it to the Director. When she did not return these applications she asked the guard to confirm from her whether she had returned the application or not and in the meantime Smt. Shobha started shouting. The Guard and the other staff stated on the similar line and all of them denied of detaining her or alleged closing of the gate. Smt. Shobha Upadhyay, except asking for lodging of case, could not utter anything more. A vast litigation is already pending between both the parties. A No. Of complaints from both the parties are also pending enquiries at the PS level. The alleged forged Resignation Letter dated 04th July, 2005 has already been sent to FSL, Rohini for examination. However the enquiry conducted so far does not substantiate her allegations yet the matter has been kept pending for thorough enquiry. SHO/PS Vasant Kunj is already aware of the matter. The matter has been kept pending.

29. The complainant made no mention of the above report in her complaint filed on 12th April 2006. Unfortunately, this again is a suppression of material fact for which there can be no excuse. It must be remembered that it was only on 12th April 2006 that the complainant made a reference to the aforementioned incident of 25th March 2006. By that time she certainly knew that an enquiry had been undertaken by the police. There is, therefore, no excuse whatsoever for not mentioning this fact in her complaint. On the contrary, she appears to have falsely stated that no action was taken by the police. Further, as already noticed, there is no explanation why she did not refer to the said incident in the complaint filed on 28th March 2006.

30. The complainant examined herself as a witness in both complaints. The above facts concerning the NCW report, the FSL reports, the police enquiry of

25th March 2006, which were in her knowledge were not adverted to in her depositions. Thereafter the complaints were listed before the learned MM on 21st July 2006. Even before the learned MM it appears that the facts concerning the NCW report of 17th August 2005, the FSL report dated 19th December 2005, the police enquiry conducted on 25th March 2006 were not mentioned by the complainant. These documents did have a bearing on the question whether the accused should be summoned. They were material documents containing vital information. In the considered view of this Court, the conduct of the Petitioner in suppressing the above vital facts in her complaints which had a bearing on whether the learned MM could have passed the summoning order is inexcusable and constitutes a gross abuse of the process of law. The learned MM in any event made no reference to the above documents which, if noticed by the learned MM, could not have led to the passing of the summoning orders. The petitioners are accordingly entitled to succeed for the aforementioned reasons.

31. Accordingly, these petitions are allowed. The Complaint Case No. 21/03 of 2006 titled "Shobha Upadhaya v. Sangeeta Paul and Ors." and Complaint Case No. 19/03 of 2006 titled "Shobha Upadhaya v. Sangeeta Paul and Ors." and all proceedings consequent thereto including the summoning order dated 21st July 2006 in each of the complaints hereby stand quashed. The applications are disposed of. 32. The trial court records be sent back immediately along with a certified copy of this order.