

(2014) 02 P&H CK 0074
In the Punjab And Haryana At Chandigarh
Case No : CRM-M-4417-2014 (O and M)

Savarjit Lal

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 05-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154(3) 156(3) 200 36 482
Penal Code, 1860 (IPC) — Section 171G 417 420 465 468

Citation : (2014) 02 P&H CK 0074

Hon'ble Judges : R.P. Nagrath, J

Bench : Single Bench

Advocate : Harinder Singh, for the Appellant;

Final Decision : Dismissed

Judgement

R.P. Nagrath, J.—This petition u/s 482 Cr.P.C. has been filed by the petitioner seeking a direction to respondents No. 1 to 5 to register FIR under Sections 171G, 417, 420, 465, 468 and 471 IPC at Police Station Division No. 5, Ludhiana against respondent No. 6-Ashok Kumar, Ex. Municipal Councilor for committing fraud and cheating with the State as well as the petitioner. The contention of learned counsel for the petitioner is that Ashok Kumar respondent No. 6 was elected as Municipal Councilor, Municipal Corporation, Ludhiana from Ward No. 5 of District Ludhiana in the General Elections of Municipal Corporation, Ludhiana held in the year 1997. During the said elections, Ward No. 5 was reserved for Scheduled Caste (Men). Ashok Kumar had filed his nomination for the said ward and thereafter got elected from the above stated constituency which was exclusively reserved for Scheduled Caste (Men) by falsely claiming himself to be a "Ramdassia" (SC) at the time of elections i.e. in the year 1997. It is further contended that respondent No. 6 had got prepared a false Caste Certificate by committing forgery with an intention to cheat the authorities by getting himself illegally declared as a "Ramdassia" and claiming himself as a Scheduled Caste. Neither the father/fore-fathers of respondent No. 6 have been known member(s)

of the said Caste, nor his real brother is a member of the same. The said illegal act has been committed by Ashok Kumar-respondent No. 6 with an intention to usurp the benefits which were otherwise to be availed by the genuine Scheduled Caste candidate. He got issued a false Scheduled Caste certificate in his name in connivance with the officials who falsely attested and endorsed the same. Copy of the said certificate issued in the year 1997 has not been supplied by the Authority till date and it will be produced after receiving the same which has been applied much earlier with the concerned department.

2. That respondent No. 6 has been illegally deriving the benefits by claiming himself to be a Scheduled Caste resulted into grave detriment to the cause of genuine Scheduled Castes which have been illegally usurped by him. Respondent No. 6 has been contesting elections of Municipal Councilor from constituencies exclusively reserved for Scheduled Castes several time including elections held in the years 1997 and 2007 by falsely claiming himself to be a member of Scheduled Caste. Copy of Scheduled Caste certificate of respondent No. 6 is dated 16.4.1998 (Annexure P-2). It is further contended that real brother of respondent No. 6, namely; Ranjit Kumar S/o Dara Ram resident of 339, Manoj Colony, Jassian Road, Netaji Nagar, Ludhiana does not belong to Ramdassia Caste. Copy of Caste certificate dated 25.1.2003 (Annexure P-3) of Ranjit Kumar is also attached with the petition. Respondent No. 6 has been furnishing false information to the public servants by making fake representations and claims with an intention to receive false claims belonged to a Scheduled Caste. It is also contended that the petitioner filed various complaints for registration of a case against respondent No. 6 to the authorities and copies of the complaints dated 25.10.2013 and 23.12.2013 are attached with the petition as Annexures P-5 and P-6 but no action was taken thereon so far. Hence, the present petition.

3. After considering the facts of this case, I am of the considered view that no indulgence of this Court is required. Various options are available to the petitioner to pursue his remedy of this nature.

4. Hon''ble Supreme Court in Sakiri Vasu Vs. State of U.P. and Others, held that it is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere. It was further held as under:

26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police u/s 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate u/s 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition u/s 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint u/s 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

5. In view of the above and keeping in view the facts and circumstances of the case, this matter does not need indulgence of this Court in exercise of its inherent powers u/s 482 Cr.P.C. It is however for the Magistrate to decide the appropriate course how to proceed in the complaint made to it, on application of mind, whether proceed to take cognizance of the complaint or to take action u/s 156(3) Cr.P.C. The instant petition is dismissed of with the above observations.