



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**Criminal Misc. No. M-46314 of 2024
Date of decision :-19.09.2024**

Rajpal and another**.....Petitioners****Versus****State of Haryana and another****.....Respondents****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: - Mr. Abhinav Sood, Advocate
for the petitioners.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA J. (Oral)

1. Prayer in the present petition is for quashing of FIR No.0077 dated 28.05.2022 (Annexure P-1) under Sections 120-B, 354-A, 354-C, 354-D, 506 and 509 IPC, registered at Women Police Station, Ballabgarh, District Faridabad; and further for quashing of challan/final report dated 04.8.2022 presented before the learned trial Court, Faridabad under Section 173 Cr.P.C. (Annexure P-8); and all other subsequent proceedings arising out of the said FIR, **on merits**.

2. Ld. Counsel for the petitioners inter alia submits that the petitioners are the parents-in-law of the complaint/respondent no.2 herein. The present FIR has been filed with an illegal intent and sinister and ulterior motive of the complainant. The FIR is a counterblast to the complaint dated 6.4.2022 made by the petitioner No.2/mother-in-law under the Maintenance of Parents and Senior



Citizen Act, 2007; which was allowed in favour of the petitioners vide order dated 2.9.2022 (Annexure P-2). It is submitted that the present FIR is nothing but a ploy to coerce the petitioners into handing over their residential house to the complainant and her husband. It is further submitted that the allegations made in the FIR are false and fabricated. Moreover, statement of the complainant under section 164 Cr.P.C was recorded five days after registration of the FIR. Clearly, therefore, provisions of law have not been complied with.

3. *Per contra*, learned counsel for the State vehemently argues that very serious allegations have been made in the present FIR; inasmuch the allegation against petitioner No.1/father-in-law is that he had forcibly compelled the complainant/respondent No.2 to develop physical relations with him. It has also been alleged that petitioner No.1 used to watch the complainant through the ventilator by standing on a stool while she was taking bath. It has further been alleged that when the complainant complained to her mother-in-law/petitioner No.2 about this, she told her to bear it. Learned counsel for the State further informs that a Compact Disk/ Pen Drive in this regard has been taken into possession by the Investigating Agency which is stated to contain incriminating material against the petitioners. The said Compact Disk/ Pen Drive has been sent to the FSL for investigation, and the report is still awaited. It is accordingly submitted that an FIR of this nature cannot be quashed at this stage. It is further informed that the matter is now fixed before the learned trial Court for 22.11.2024 for framing of charges.

4. No other argument is made on behalf of the parties.



5. I have heard learned counsel for the parties and perused the file.

6. Perusal of records of the case shows that present FIR No.0077 dated 28.05.2022 (Annexure P-1) was registered under Sections 120-B, 354-A, 354-C, 354-D, 506 and 509 IPC, 1860 which is reproduced as follows:-

*“To, SHO, Women Police Station, Ballabgarh,
Subject:- Application regarding initiating action.
Sir ji, it is requested that I Sheela wife of Sh.
Neeraj Kumar is resident of Shiv Nagar Colony,
village Sahupura, Tehsil Ballabgarh District
Faridabad in front of "Sir V.B. Public School.
"That my father-in-law Rajpal son of Sh. Shyam
Lal is resident of village Sahupura Mo.
9268500227 who since a long time is subjecting
me to physical exploitation, mental harassment
and forcibly compelling me to develop physical
relations. That entire day looking into my room, by
watching me through a ventilator while taking a
bath in the bathroom by standing on a stool, by
touching me anytime anywhere while moving in
the house. When I made mother-in-law Saroj
aware about this, then she threatened me to shut
my mouth and started to threaten and frighten me
and said to me that no difference occurs with these
things, you will have to act according to us and
you will have to do whatever is said by us. When I
told these things to my husband Neeraj than he
tried a lot to make his parents understand but they
in return made him quiet and started to exert
pressure through my brother-in-law (Nandoi)
Harbir son of Dharambir to be quiet and to endure*



everything and Harbir threatened to kill us because of which I became quiet due to fear. Thereafter, this thing did not stop here and proceeded further and my father-in-law forcibly started to make obscene talks with me over the phone (whose recording I have given CD and Pen drive herewith). By getting tired of all this I have blocked his number many times but even thereafter from the block number by calling 50 to 60 times used to subject me to mental harassment (whose print of screen shot I have appended herewith) but mother-in-law used to forcibly exert pressure upon me to talk to him. By getting tired of all this, I made my parental family aware about all this, they by coming to the house tried to made my father-in-law and mother-in-law understand but next day my father-in-law and mother-in-law went away from the house by giving us threats to see us in anger. After some days of this incident my sister-in-law Deepa wife of Mahesh daughter of Sh. Rajpal resident of village Sunped Tehsil Ballabgarh District Faridabad Mo. 8860811792, second sister-in-law Renu wife of Harbir daughter of Sh. Rajpal Mo. 9958046071 and brother-in-law (Nandoi) Harbir son of Sh. Dharambir husband of Renu resident of village Machgar Tehsil Ballabgarh Mo. 8826490022 came to our house and started to have a scuffle with me and my husband and both of my sisters-in-law by confining me into a room asked me to keep my mouth shut and threatened to kill all of us. From this we became quiet due to fear. Now since past few days we are finding the activities of the movement of suspicious persons around our house,



stone pelting on the house, running away after banging the gate of the house without any reason, stalking by suspicious persons at the time of going out of the house. I stay in the house in the day time alone with my 5 year old son, my husband goes to work and I am pregnant. I have threats to the life of me and my husband. Therefore, it is requested from your good self that considering the aforesaid circumstances, hopes that prompt and quick action against the accused would be initiated.”

7. A bare reading of the above FIR shows that very serious allegations have been made therein by the complainant against the present petitioners. Counter allegations have been made by the petitioners that the present FIR is motivated. However, in view of the seriousness and gravity of the allegations, this Court is not inclined to quash the FIR as the sanctity of the allegations can only be determined after leading of evidence in that regard. Perusal of the report under section 173 CRPC dated 4.8.2022 (Annexure P-8), reveals that after recording statements of the complainant, during investigation, a pen drive was presented by the complainant in which there was recording of conversation between the complainant and her father-in-law. After investigation, the other accused, besides the petitioners were not found involved in the FIR. As such they were put in column No.2. Offence under section 120 IPC was deleted, and section 34 IPC was added. Upon getting anticipatory bail from the learned ASJ Faridabad, the petitioners joined investigation on 07.07.2022. On 21.07.2022, petitioner No.1-Rajpal gave his voice sample which has been sent to the FSL in respect of which report is



still awaited. Call detail records between the petitioner No.1 and complainant have been retained and have been sent for investigation. Needless to say, it is not for this Court to examine the evidence. The truth or otherwise of the allegations and counter allegations can be established only after trial.

8. Even otherwise, the legal position in this regard is very clear. In the facts and circumstances of the present case, it would be apposite to refer to a 3-Judge Bench judgment of the Hon'ble Supreme Court in case titled as **"M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra & Others"** Law Finder Doc ID # **1830709**, relevant part of which is reproduced hereinbelow:-

"10. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja NazirAhmad (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;*
- ii) Courts would not thwart any investigation into the cognizable offences;*
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*
- iv) The power of quashing should be exercised sparingly with circumspection, in the rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C., 1973 is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);*
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*
- vi) Criminal proceedings ought not to be scuttled at the initial stage;*



- vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C., 1973
- ix) The functions of the judiciary and the police are complementary, not overlapping;
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;
- xiii) The power under Section 482 Cr.P.C., 1973 is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;
- xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and
- xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., 1973 only has to consider whether or not the allegations in



the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

(Emphasis supplied)

9. Reliance may also be placed upon judgment of the Hon’ble Supreme Court in “**Satvinder Kaur Vs. State (Govt. of NCT of Delhi)**” **Law Finder doc ID # 32588**, wherein it has been held that:

“D. Criminal Procedure Code, 1973, Section 482 - Quashing of FIR - Law enunciated by Supreme Court summed up :-

- (i) If an offence is disclosed, Court will not normally interfere with investigation into the case and will permit investigation into the offence - If FIR, prima facie, disclosed commission of an offence, court does not normally stop the investigation, for to do so would be to trench upon the lawful power of Police to investigate into cognizable offences. 1982(1) SCC 561.*
- (ii) For purpose of exercising power under Section 482 Criminal Procedure Code, 1973 to quash FIR or a complaint, the High Court would have to proceed entirely on basis of allegations made in the complaint or the documents accompanying the same - It has no jurisdiction to examine the correctness or otherwise of the allegations. 1985(2) SCC 370.*
- (iii) Power of quashing the criminal proceedings should be exercised very sparingly with circumspection and that too in the rarest of rare cases.*
- (iv) Court will not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.*
- (v) First information report is only an initiation to move the machinery and to investigate into a cognizable offence and, therefore, while exercising the power and deciding whether the investigation*



itself should be quashed, utmost care should be taken by the court and at that stage it is not possible for the Court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. 1991(1) RCR (Criminal) 831.

(vi) *High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent power under Section 482 or under Articles 226 and 227 of the Constitution of India and allow the law to take its own course.*

(vii) *Such power should be sparingly and cautiously exercised only when the court is of the opinion that otherwise there will be gross miscarriage of justice.*

(viii) *Social stability and order is required to be regulated by proceeding against the offender as it is an offence against the society as a whole.”*

10. Resultantly, in view of the factual and legal position as noticed above, I find no merit in the present petition and the same is accordingly, **dismissed**.

11. Pending applications, if any, also stand disposed of.

September 19, 2024

Vijay Asija

(**NIDHI GUPTA**)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No