

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 235

Criminal Miscellaneous No.M-31101 of 2014

Date of Decision: May 25, 2015

Nikhileshwar Trikha & others

..... PETITIONER

VERSUS

State of Haryana & another

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. R.S. Rai, Senior Advocate, with Mr. Salil Sabhlok, Advocate, for the petitioners.

Mr. Charanjit Singh Bakhshi, Additional Advocate General, Haryana.

Md. Farhan Khan, Advocate, for respondent No.2.

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Jaspal Singh, J (Oral)

1. The present petition has been preferred under Section 482 Cr.P.C. by petitions seeking quashing of FIR No.284 dated June 18, 2014 (Annexure P-1) under Sections 323, 341, 504, 506, 34 IPC, registered at Police Station, Sushant Lok, Gurgaon. The relevant part of FIR reads thus:-

“..Respected Sir, it is requested that I am Arpit Srivastav S/o Sawn Kumar is R/o Lajjaram Building, Sarita Vihar, Khadi Kuan Khaadar (Delhi) and I am working as Technical Support Advisor in Dell Company. Since February, Nikhleshwar Trikha, Manager Technical Support, Nischal Aggarwal, Area Manager, Saroj Pathak, Area Manager, Vivashal Arya, HR Manager and other persons of Company, under a well-planned and knitted conspiracy are trying to dismiss me from my job by torturing me for unknown reasons, forcefully withholding me, by using abusive language, threatening to kill me, to implicate me in a case by giving bribe to police, by using abusive language for my birth place Uttar Pradesh. Today, i.e. 18/6/14 at about 1.00 A.M above said persons tried to take me to an isolated place by making excuse of a meeting. I told them to either give me in writing or to e-mail me but they, after surrounding me, tried to take me away forcefully, by sensing their intention I called No. 100 from my mobile no. 9891249555, told reality and told that I have been confined and help be provided. On which you came immediately. I was not allowed to go down. By telling the whole truth, I am requesting you to kindly take legal action. Due to my injured thumb, all the things have been recorded by stating verbally and I have read them. Heard. Understood. Are correct. I have many witnesses who cannot come forward due to fear of losing job but can different you. I also have a recording in telephone. Truth can also be verified from CCTV Camera of Office...”

2. Contention of learned counsel for the petitioner seeking quashing of the FIR is that petitioner No.1 is working on the post of Technical Support Supervisor with Dell India, Gurgaon and is managing the Technical Support Teams as Manager. Petitioner No.2 is working as Technical Support Senior Manager with Dell India, Gurgaon and is Area Manager. Similarly, petitioner Nos.3 and 4 are also working as Technical Support Senior Manager and HR Generalist Senior Advisor, with Dell India, Gurgaon, respectively. Respondent No.2 – complainant was recruited by Dell India, Gurgaon in the year 2012 as Client Technical Support Associate and petitioner No.1 is his immediate Manager. Petitioner No.1 informed respondent No.2, on April 23, 2014 about his low performance in the organization vide e-mail Annexure P-3. As an outburst of the same, on the next day, he posted derogatory

remarks against petitioner No.1 on social networking site i.e. Facebook to defame him, copy of which has been placed on file. When he was counselled by petitioner Nos.2 and 3 on the aforesaid issue, he sent an apology e-mail. Respondent No.2 also shared his outburst with one colleague Girish Narang working as Client Technical Support Associate in Dell India and conveyed his intention to harm petitioner No.1. Girish Narang further shared the other information with petitioner No.1 and cautioned him vide e-mail dated April 24, 2014. When petitioner No.1 felt threatened by the acts and conduct of respondent No.2, he formally lodged a complaint with Human Resource Department of Dell India which is being investigated by the Ethics Department of Dell. In order to pressurize the management and get back at petitioner No.1, on April 18, 2014, complainant – respondent No.2 lodged instant FIR coining a false story of extending threats or causing harm to him by petitioners.

3. It has further been urged that a perusal of FIR reveals that all the allegations are vague, frivolous and concocted. Petitioner Nos.3 and 4, during investigation, have already been found innocent. Their plea of *alibi* was accepted by Investigating Officer as they were not present in the premises of office or even at Gurgaon. Finding the instant case against petitioner Nos.3 and 4 to be false, proves that entire story has been concocted by petitioner Nos.1 and 2 just to involve them in a false case. Moreover, at the time of alleged incident, there were more than 200 persons working in the office. There is no isolated area

available in the office complex, especially where the incident is alleged to have taken place. FIR is nothing but an abuse of process of law and has been registered with malafide intention of complainant to get back at petitioner No.1 as he had reported his work to be of low performance and further, has escalated complaint against him for threatening him on social networking site. Petitioner No.2 has also nothing to do with complaint lodged by petitioner against the complainant which is being investigated by Ethics Department. Infact, petitioner No.2 is senior of petitioner No.1. The allegations made in FIR have been made with malafide intention and where the complaint or proceeding has been instituted maliciously with an ulterior motive to wreak vengeance, complaint is liable to be quashed.

4. On the other hand, learned State counsel assisted by learned counsel for complainant – respondent No.2 has strongly opposed the various submissions made by learned counsel for the petitioners. He has urged that mere fact that petitioner Nos.3 and 4 have been found innocent during investigation of case does not mean that allegations against petitioner Nos.1 and 2 are also wrong. A deep probe/ investigation has been conducted during which it has been found that petitioners, under a well-planned and knitted conspiracy, are bent upon to dismiss the complainant. He was also being tortured. Not only this, he was abused and intimidated. He was taken to an isolated place by making an excuse of a meeting but after surrounding him, he was tried

to be taken away forcibly. By sensing intention of the petitioners that they could harm him physically, he rang up to the police and was released by the police officials. No ground is made out to quash the FIR as allegations contained therein are proved during investigation qua petitioner Nos.1 and 2.

5. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the parties and meticulously gone through documents available on file.

6. Undisputably, respondent No.2 is working under petitioner No.1 at Gurgaon and petitioner No.1 informed him, on April 23, 2014, about his low performance in the organization. On coming to know about the said information, complainant – respondent No.2, on the next very day, posted derogatory remarks on social networking site to the effect that :-

“Today I am pissed like an angry fart n the reason is my manager. I am feeling like to take revenge. Today onwards I will start the process of destruction harming everyone.

Help me with innovative idea.”

7. When respondent No.2 was counselled by petitioner Nos.2 and 3, he sent an apology e-mail which reads as under:-

“From: Srivastava1, Arpit
Sent: Thursday, April 24, 2014 3:31 AM
To: Pathak, Saroj; Agarwal, Nishchal
Subject:

Dell – Internal Use – Confidential

Hello,

I am apologetic for the things that have happened with a sudden thug wherein they have no relevance. I have no intends to harm anyone.

I ensure any such thing will not happen in future and I will give my best in order to improve my data.

I sincerely request to give me one chance to prove my best.”

8. Subsequent thereto, petitioner No.1 also lodged a complaint against respondent No.2 with Human Resource Department which was being investigated by Ethics Department. It was only thereafter, instant FIR was got registered against petitioners.

9. It would also be pertinent to mention here that as per the contents of FIR, all the four petitioners were present when respondent No.2 is alleged to have taken to an isolated place by an excuse of meeting but during investigation of this case, petitioner Nos.3 and 4 were not found to be physically present in the office. Their plea of *alibi* has been accepted by Investigating Officer and they were declared innocent. This fact puts a serious dent in the version unfolded by complainant in FIR that occurrence/ incident did not take place as has been unfolded by him while lodging the FIR. This fact also could not be denied by the complainant that there were more than 200 persons working in the office at the time when occurrence is alleged to have taken place. No specific name of any witness has also been given in FIR.

10. From the above narrated facts and circumstances, it is established that instant FIR has been lodged as a counter-blast to the complaint lodged by petitioner No.1 with regard to low performance of

respondent No.2 – complainant as well as his acts and conduct. It is well established that where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the complaint deserves to be quashed.

11. In the light of what has been discussed above, this Court is of the considered view that FIR is nothing but an abuse of process of law and has been filed with ulterior motive to wreak vengeance on the petitioners. Accordingly, petition is allowed. Resultantly, FIR No.284 dated June 18, 2014 (Annexure P-1) under Sections 323, 341, 504, 506, 34 IPC, registered at Police Station, Sushant Lok, Gurgaon, stands quashed qua the petitioners.

May 25, 2015
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(Jaspal Singh)
Judge