

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

**CRM No.M-34000 of 2014
Date of Decision: 09.03.2015**

Bhupinder Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HONBLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Mr. K.D. Sachdeva, Addl. AG, Punjab.

Mr. Beant Singh, Advocate
for the complainant.

RAMESHWAR SINGH MALIK J. (ORAL)

The petitioner has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.'), for quashing of FIR No.121 dated 04.10.2013 under Sections 448, 406 read with Section 34 of the Indian Penal Code ('IPC' for short), registered at Police Station Daba, District Ludhiana.

Notice of motion was issued and pursuant thereto, reply has been filed by the State as well as by the complainant.

After hearing learned counsel for the parties and considering the rival contentions raised, this Court is of the considered opinion that even if the contents of the FIR are taken to be correct, on their face value, no case is made out against the petitioner. Admittedly, petitioner was not named in the FIR. In fact, not even a passing reference is made against the petitioner

in the impugned FIR.

The only allegation which has been levelled against the petitioner is that during the investigation, the complainant and some other residents of the area made statement naming the petitioner. This kind of dishonest statement made by the complainant, can be said to be nothing but an afterthought. In fact, he has tried to involve every member of the family, so as to put illegal pressure on them.

During the course of hearing, when a pointed question was put to the learned counsels for the State as well as complainant, as to why the complainant could not name the petitioner at the very first opportunity at the time of registration of the FIR, they had no answer and rightly so because it was a matter of record. In fact, from the record of the case, it is clearly made out that petitioner was not responsible for the alleged misconduct of Sarabjit Singh and Gurmit Kaur. She has nothing to do with the allegations levelled against the accused named in the FIR. Complainant can not be permitted to make out an entirely new case during the investigation. It seems that investigation agency misconducted itself, while trying to change the course of law, during the investigation of the matter, so as to implicate the petitioner.

A careful perusal of the contents of the FIR and the other relevant record would show that petitioner has been falsely implicated in the present case. Even after admitting the contents of FIR to be true on their face value, without adding anything thereto and without extracting anything therefrom, no offence of any kind, whatsoever, is made out against the petitioner. Having said that, this Court feels no hesitation to conclude that continuing of criminal proceedings against the petitioner would result in

miscarriage of justice.

In the given fact situation of the present case, in the opinion of this Court, it would be covered by more than one principles laid down by the Hon'ble Supreme Court, for quashing of the criminal prosecution, in its celebrated judgment reported as **State of Haryana versus Bhajan Lal and others, AIR 1992 SC 604**. The relevant observations made by the Hon'ble Supreme Court laying down seven principles, which can be gainfully followed, in the present case, read as under:-

- (a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;
- (b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;
- (c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
- (d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;
- (e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion

that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide 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 law laid down by the Hon'ble Supreme Court in *Bhajan Lal's case (supra)* has been followed consistently in later judgments as well, including in the case of **Sundar Babu and others versus State of Tamil Nadu reported as 2009 (2) RCR (criminal) 606.**

Such tendencies have been noticed and acknowledged by this Court earlier also including in the cases of **Rakesh Kumar and others versus State of Punjab and others, 2009 (20 RCR (criminal) 565, Kamaljit Singh versus State of Punjab 2004 (1) RCR (criminal) 321 and Harjinder Kaur and others versus State of Punjab, 2004 (4) RCR (Criminal) 332.**

Considering the peculiar facts and circumstances of the present case, noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No.121 dated 04.10.2013 under Sections 448, 406 read with Section 34 of the Indian Penal Code ('IPC' for short), registered at Police Station Daba, District Ludhiana and the consequential proceedings

arising therefrom are ordered to be quashed, however, only qua the petitioner.

Resultantly, with the abovesaid observations made, instant petition stands allowed, however, with no order as to costs.

09.03.2015

Bhumika

**(RAMESHWAR SINGH MALIK)
JUDGE**