

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.

Crl.Misc. No.M-9973 of 2014  
Date of Decision : 29.9.2015

Shingara Singh and others .....Petitioners

Vs.

State of U.T., Chandigarh and others .....respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr.A.D.S. Sukhija, Advocate for the petitioners.  
Mr. G.S. Chahal, APP, U.T. Chandigarh.  
Mr. Maninder Arora, Advocate for respondents no.4 to 7.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Petitioners, by way of instant petition under Section 482 of the Code of Criminal Procedure seek quashing of FIR No.56 dated 5.4.2008 under Sections 380, 448, 451, 427, 506, 120-B IPC registered at Police Station Industrial Area, Phase-I, Chandigarh and consequent proceedings arising therefrom.

Notice of motion was issued and pursuant thereto, reply on behalf of respondents no.4 to 7 was filed.

Learned counsel for the petitioners submits that a bare reading of the impugned FIR would show that no offence of any kind, whatsoever, is disclosed against the petitioners. In such a situation, continuation of criminal

proceedings against the petitioners would amount to abuse of process of law. He further submits that the matter, if any, was of civil nature. Complainant failed to establish his ownership on the disputed piece of land. In such a situation, no offence of criminal trespass could have been alleged against the petitioners. He prays for quashing the impugned FIR and the consequential proceedings arising therefrom, by allowing the present petition.

On the other hand, learned counsel for the State as well as learned counsel for the complainant-respondents no.4 to 7 submit that allegations against the petitioners are specific and direct. The learned trial court has already framed charges against the petitioners by passing a self contained order dated 9.12.2009. In such a situation, petitioners cannot claim that from bare reading of the FIR, no offence is made out against them. They pray for dismissal of the present petition.

Having heard learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, instant one has not been found to be a fit case, warranting interference at the hands of this court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. for the following more than one reasons.

It is the settled proposition of law that the FIR can be quashed only, when even after treating the undisputed and uncontroverted allegations to be true on their face value, no offence of any kind, whatsoever, is made out against the accused-petitioners. Present one has not been found to be a case of this nature. It is so said because the learned trial court has already framed the charges against the petitioners, vide its order dated 9.12.2009, which has not

even been specifically challenged by the petitioners in the present petition. Having said that, this court feels no hesitation to conclude that once the charges have been framed against the petitioners and the said order is not even under challenge, the impugned FIR and the consequential criminal proceedings arising therefrom, cannot be quashed.

The Hon'ble Supreme court in its celebrated judgement in the case of **State of Haryana Vs. Bhajan Lal, 1992 AIR 604** has laid down the following broad principles for quashing the FIR and the criminal proceedings arising therefrom, which read as under :-

1. 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.
2. 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.
3. 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.
4. Where, the allegations in the F.I.R. 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.

5. Where the allegations made in the F.I.R. 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.
6. 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.
7. 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.”

Reverting back to the facts of the case in hand and respectfully following the law laid down in **Bhajan Lal's case (supra)**, which has been consistently followed in the later judgements by the Hon'ble Supreme Court as well as by this court, it can be safely concluded that the present case does not fall within the ambit of any of the above said guidelines laid down by the

Hon'ble Supreme Court, so as to enable this court to quash the impugned FIR.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, present petition has been found to be wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above said observations made, present petition stands dismissed, however, with no order as to costs.

29.9.2015  
GS

(RAMESHWAR SINGH MALIK)  
JUDGE