

\$~R-207

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of Decision: August 03, 2015*

+ CRL.M.C. 1198/2013  
S.S. SINGH

..... Petitioner

Through: In-person

versus

RAJPAL & ORS.

.... Respondents

Through: Mr.Praveen Bhati, Additional  
Public Prosecutor for respondent-  
State with SI Gulshan Kumar PS  
Mayur Vihar

**CORAM:**

**HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT**  
**(ORAL)**

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In FIR No.367/2007 for the offence under Section 323/341/506/387/500/34 IPC read with Section 25 of *Arms Act* registered at Police Station Mayur Vihar, Delhi vide detailed order of 30<sup>th</sup> August, 2012, trial court had summoned respondents herein for the offence under Section 323/341/506/34 IPC. Above-said order was challenged by way of a revision petition by the respondents herein. Revisional court vide impugned order of 17<sup>th</sup> January, 2013 has upset the above-said trial court's order and has discharged respondents herein by holding that allegations made by petitioner-complainant appear to be improbable and motivated. The initial version given in petitioner's complaint of 10<sup>th</sup>

September, 2007 to the concerned DCP reads as under:-

*The persons named Rajpal, Kamla, Sukhbir are known to the applicant. All of them wrongfully at 2.00 p.m. restrained the applicant in a way near 13-Block Trilok Puri which falls within area of PS Mayur Vihar and made illegal demand of Rs.3 lacs. After refusal by the same they used filthy languages and started beatings. Rajpal and Sukhbir showed knife and all of them threatened either withdraw the case and fulfill their demands of Rs.3 lacs otherwise they will kill the applicant and his family. They also threatened to falsely implicate the applicant and his family in any case. Public persons collecting there saved the applicant. Seeing the public persons collecting, they fled away by two wheeler scooter bearing no.DL-7S-B6202.*

At the hearing, petitioner, who is a lawyer by profession, has chosen to argue this petition himself. It was submitted by petitioner that upon bare reading of the initial version of complaint [Annexure A], it becomes quite apparent that there are clear allegations against respondents herein which indicate that the offences in question are *prima facie* made out and so impugned order discharging respondents-accused herein deserve to be quashed and aforesaid trial court's order ought to be restored.

Learned counsel for respondents supports the impugned order and has placed copies of various orders in different complaints between the parties to submit that in other cases, the proceedings on the basis of general and vague allegations have been already dropped and so in the facts of this case, the impugned order is justified on the face of it and does not suffer from any illegality.

Upon hearing and on perusal of impugned order, trial court's order, other orders/complaints referred to and material on record, I find that

each case has to be decided on its own facts and merely because in other cases proceedings initiated by petitioner against respondents herein have been already dropped would not be a ground to sustain the impugned order. During the course of hearing, petitioner had drawn the attention of this Court to an order of 29<sup>th</sup> January, 2013 of this Court in Crl.M.C.1394/2008 titled *Tarun Singh v. Raj Pal & Ors.* wherein similar complaint between the parties was allowed to proceed with.

It is settled legal position that allegations leveled are required to be taken on their face value and its improbability and such allegations being motivated cannot be pre-judged without petitioner- complainant being cross examined. In the instant case, it cannot be said that allegations leveled by petitioner against respondents herein are motivated, improbable or perverse. At this stage, it is only to be seen whether *prima facie* case is made out or not. Even on strong suspicion, an accused can be put on trial. On this aspect, pertinent observations of Apex Court in *Padal Venkata Rama Reddy Alias Ramu v. Kovvuri Satyanarayana Reddy & Ors. (2011) 12 SCC 437*, are as under: -

*“The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. It would not be proper for the High Court to analyse the case of the complainant in the light of all the probabilities in order to determine whether conviction would be sustainable and on such premise arriving at a conclusion that the proceedings are to be quashed. In a proceeding instituted on a complaint, exercise of inherent powers to quash the proceedings is called for only in a case in which complaint does not disclose any offence or is frivolous, vexatious or oppressive. There is no need to analyse each and every aspect*

*meticulously before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole.”*

Applying the afore-noted dictum of Apex Court to the facts of the instant case, impugned order of 17<sup>th</sup> January, 2013 is hereby quashed and trial court's order of 30<sup>th</sup> August, 2012 is restored for proceeding further in the FIR in question in accordance with law.

The petition is disposed of while not commenting upon merits of this case, lest it may prejudice either side before trial court.

**(SUNIL GAUR)**  
**JUDGE**

**AUGUST 03, 2015**

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