

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-36095 of 2012 (O&M)
Date of decision: 23.10.2017

Ved Parkash

..... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

Mr. S.K. Panwar, Advocate
for respondent no. 2.

SURINDER GUPTA, J.

The petitioner has filed this petition under Section 482 Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of FIR No. 142 dated 07.08.2012 (Annexure P-1) alongwith all consequential proceedings arising therefrom, registered for offences punishable under Section 506 of Indian Penal Code (for short 'IPC') at Police Station Sector 40, Gurgaon.

Above FIR was registered on the complaint of respondent no. 2, which reads as follows:-

"I am residing at Flat No. A-2, 101, World SPA East, Sector 30/31, Gurgaon since last 30 months. I have 4 brothers. I being the eldest, next was late Ranbir Singh, next Satbir Yadav, then Ved Prakash and Jai Bhagwan and families of all the brothers are residing separately and are having separate business. My brother Ved Prakash is very jealous of me due to my progress in the business. He became more jealous towards

me as the time progressed and he always used to expect monetary help from me. That in the year 1983 I gave ₹3 lacs to my brother Ved Prakash on credit. But he did not return and when I demanded my money back Ved Prakash got angry and he started filing false and fictitious cases against me in the Courts of Delhi but all were dismissed. Finding no alternative I filed a petition/case in the Court of Rohini against Ved Prakash to the effect that he should be restrained to file false and bogus cases and that particular case is pending in the Court of 102, Rohini and the next date of hearing is 9th August, 2012. That yesterday on dated 12.07.2012 at 10.36 p.m. I was at my house and I got a call from Ved Prakash from Mobile No. 9811073002, wherein he was threatening me that if I don't take the case back, which is coming on hearing on 09.08.2012, he will get me and my family members eliminated. He was also using abusive language and during the course of discussion he has handed over the phone to some unknown guy who has also threatened to kill me if I don't withdraw the case. He also stated that he is a very known and big goonda of the area. Both of them thus have put me under fear of threat and commit extortion. After hearing all this I was very frightened and did not report the matter in the night being odd hours and now I am moving this application with you so that you can take necessary action against my brother Ved Prakash and the other guy. I am fearing for my life and am very much worried that he might harm me or my family members. The address of

*my brother was 39, Deepali, Pritampura, Delhi. Thanking you,
Your's sincerely Dharamvir Singh Rao s/o Shiv Chand Yadav.
9810004929.”*

Learned counsel for the petitioner submits that petitioner is brother of respondent no. 2. There has been a lot of litigation pending between the petitioner and respondent no. 2. The allegation levelled by the respondent no. 2-complainant pertained to a conversation on telephone. The entire case is based on statement of respondent no. 2-complainant without any corroboration. This FIR is based on absurd and inherently improbable allegations, as such, is required to be quashed. He has relied on observations of Hon'ble Apex Court in case of **State of Haryana vs. Ch. Bhajan Lal, 1991 (1) RCR (Criminal) 383** and of Andhra Pradesh High Court in case of **Sajjal Agarwal and another vs. State of A.P., 2012 (7) RCR (Criminal) 1871.**

Learned State counsel has argued that allegations in the FIR were investigated and found to be correct. The call details were obtained, which proved that telephonic conversation took place between the petitioner and respondent no. 2-complainant. This fact is not denied that the petitioner had earlier filed a criminal case against respondent no. 2-complainant, which was found to be false. Relations between the parties were strained. In these circumstances, call made by petitioner to respondent no. 2 could not be a friendly call. It will be for the trial Court to see as to whether statement of complainant is reliable and the offences alleged against the accused are duly proved? Keeping in view facts and circumstances of the case FIR registered by the police of Police Station Sector 40, Gurgaon is not an abuse of process of law, calling for its quashing.

Admittedly, relations between the parties were strained. Petitioner had filed a criminal case against respondent no. 2 in which after investigation he was found innocent. Later, trial Court summoned respondent no. 2 on application of prosecution under Section 319 Cr.P.C. and all the accused named in that case were acquitted. As argued by learned counsel for petitioner there is criminal and other litigation pending between the parties and in the circumstances inference without evidence on record cannot be drawn that the petitioner had made a friendly call and the allegations levelled by respondent no. 2 are false on the face of it. This fact can be ascertained by the trial Court on the basis of evidence before it. Observations in the case of **Ch. Bhajan Lal (supra)** are not applicable to the present case. There is nothing to infer that allegations in the FIR are absurd or 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. The call details, which form part of the challan, show that the petitioner had made about six minutes call to respondent no. 2-complainant on the relevant date. As to whether statement of complainant in support of his allegations has been in corroboration or is reliable, is a fact to be seen by the trial Court on the basis of evidence produced before it. In the case of **Sajjal Agarwal (supra)**, there was a matrimonial dispute between the parties and keeping in view the peculiar facts and circumstances of the case, Hon'ble Single Bench of Andhra Pradesh High Court has observed that no offence under Sections 506 and 507 IPC on the basis of telephonic call and conversation was not made out.

Learned State counsel has also drawn my attention towards report of Deputy Commissioner of Police (South), Delhi Police dated

05.05.2010, which shows that the petitioner had got recorded several FIRs against various persons. He is a builder and businessman and as per above report has falsely implicated 23 persons named in the report.

Keeping in view facts and circumstances of the case as discussed above, I do not find any merit in this petition and the same is dismissed. It is, however, made clear that nothing observed in this petition will be taken as opinion on merits of the case by the trial Court.

October 23, 2017

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No