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

RESERVED ON : MARCH 29, 2017

DECIDED ON : MAY 30, 2017

+ **CRL.M.C. 4004/2016 & Crl.M.A.16765/2016**

JAVED KHAN & ORS Petitioners

Through : Mr.Ajayinder Sangwan with
Mr.Tarunesh Kumar, Mr.Kunal
Chopra, Ms.Sweety, Mr.Rohan
Sharma, Mr.V.P.Singh, Ms.Rishina
Parashar and Mr.Anirudha Kr.Rai,
Advocates.

VERSUS

STATE (GOVT ,NCT OF DELHI) & ANR. Respondents

Through : Ms.Meenakshi Dahiya, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Present petition under Section 482 Cr.P.C. has been preferred by the petitioners for quashing of FIR No.49/2001 registered under Sections 506/507/383/384/386/387/388/340/342/357/34 IPC at Police Station Subzi Mandi. Status report is on record.

2. I have heard the learned counsel for the parties and have examined the file. It is relevant to note that the complainant Prem Chand Anand has since expired.

3. It is a matter of record that upon completion of investigation, closure report was filed by the Investigating Agency. The learned Trial Court did not accept the closure report and by an order dated 23.9.2005 took cognizance against the petitioners and they were summoned to face trial under Section 506/323/448/451/452 IPC. Charges were framed against the petitioners by an order dated 24.01.2015 for commission of offence punishable under Sections 452/342/506/357/34 IPC. The petitioners did not challenge the summoning order or order on charge.

4. It is also not in dispute that FIR No.291/2000 under Sections 63 and 65 of Copyrights Act was registered against Prem Chand Anand and his two sons Mahender Kumar and Sanjiv Kumar on 8.8.2000. It is urged by the petitioners' counsel that the instant FIR is counter-blast to the said proceedings initiated vide FIR No.291/2000. It is relevant to note that the Investigating Agency at first instance, did not lodge the FIR. The complainant approached this Court by filing W.P.(Crl.)1127/2000 and by an order dated 14.2.2001, direction to register the FIR was given. It was informed by the learned Standing counsel that there were allegations of commission of cognizable offences in the complaint and FIR would be lodged.

5. Learned counsel for the petitioners urged that the allegations in the complaint have no substance. The FIR lodged by the complainant was due to business rivalry. The incident, as alleged, never happened; no call was made at 100. The complainant did not get himself medically examined. The father of the petitioners had lodged a complaint on 10.08.2000 to DCP for threats extended by the complainant. The trial has been inordinately delayed.

6. Learned Additional Public Prosecutor has refuted the contentions.

7. As observed, charges have already been framed against the petitioners and they did not opt to challenge the order on charge. At the time of disposal of the Writ petition before this Court, the learned Standing counsel appearing on behalf of the State had informed that prima facie there was sufficient material disclosing commission of cognizable offence. During investigation, statements of various witnesses were recorded and finally closure report was filed by the Investigating Agency concluding that it was a case of business rivalry and there were contradictions in the statements of the prosecution witnesses. The Trial Court, however, did not accept the closure/cancellation report and took cognizance against the petitioners for the commission of offence under Sections 506/323/448/451/452 IPC.

8. Contents of the complaint forming basis of the FIR reveal that both the complainant and the petitioners were engaged in the business of manufacturing of iron/steel hinges in Malka Ganj Road, Sabzi Mandi, Delhi. It is alleged that the petitioners wanted monopoly in the area and falsely lodged an FIR 291/2000 against the complainant and his sons. It is alleged that the petitioners used to threaten the complainant to close the factory or else to kill them and set the factory on fire. There is specific mention that the petitioners armed with daggers entered the factory on the day of lodging the FIR; slapped the complainant and his sons; gave them blows; confined them in their office and criminally intimidated them. All these allegations cannot be brushed aside at this stage. The allegations are specific and definite. The petitioners have been named therein. Statement of the

complainant has been supported by the witnesses examined during investigation. Truthfulness and falsity of the allegations primarily pertains to the realm of evidence and cannot be gone through at this stage.

9. The law is very clear that the court should refrain from quashing the FIR on the ground that the allegations made in the FIR are false. Inherent powers under Section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in the Section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in the absence of specific provisions in the statute.

10. Considering the facts and circumstances of the case, the petition lacks in merits and is dismissed. The petitioners, however, will be at liberty to raise all these issues before the Trial Court during trial.

11. Observations in the order shall have no impact on the merits of the case. Endeavour shall be made by the Trial Court to expedite the trial as the case pertains to the year 2001.

12. All pending applications also stand disposed of.

(S.P.GARG)
JUDGE

MAY 30, 2017/sa