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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-3653-2013 [O&M]

Date of Decision : September 02, 2019

Parmpreet Kaur and another

.... Petitioners

Versus

State of Punjab & Anr.

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Vikas Bahl, Senior Advocate,
with Ms. Drishtana Singh, Advocate,
for the petitioners.

Ms. Monika Jalota, DAG, Punjab,
for respondent-State.

Mr. Dinesh Nagar, Advocate,
for respondent No.2.

SHEKHER DHAWAN, J.

Present petition under Section 482 of the Code of Criminal Procedure is for quashing of FIR No. 56 dated 28.05.2012 (Annexure P/3) under Sections 452, 295, 427, 323, 148, 149, 506, 447, 511 and 120-B IPC registered at Police Station Rahon, District SBS Nagar and all subsequent proceedings arising therefrom.

2. Facts relevant for the purpose of decision of the present petition; that earlier civil litigation was going on as husband of petitioner No.1 had filed a civil suit against respondent No.2, Mohinder Pal, who is complainant and author of present FIR, Annexure P/3. The said civil suit

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was filed on 14.5.2012. Reply to the said suit was filed by respondent No.2. As per the petitioners, registration of FIR, Annexure P/3 is a counter-blast to the said litigation. Meharban Singh, husband of petitioner No.1 was abroad at the time of alleged incident and FIR was got registered on totally false grounds. There was no registration No. of 475 Mahindra tractor. There was no medical report indicating that any injury was suffered. There was delay of more than 5 days in lodging the alleged FIR. No offence of criminal trespass or house trespass has been made out as respondent No.2 has not even shown that he was in possession of the property in question. Jamabandi, Annexure P/4 and Khasra Girdawari, Annexure P/5 with respect of khasra No. 19//27 would not even remotely show that respondent No.2 was in possession of the same.

3. Learned senior counsel for the petitioner contended that enquiry was conducted in this case by Deputy Superintendent of Police (D), who had submitted his report that the case was totally false and the FIR, Annexure P/3, deserves to be cancelled. Thereafter, respondent No.2 along with petitioners and Meharban Singh executed a writing (Annexure P/6) dated 28.06.2012 in the presence of witnesses. In the said compromise, Annexure P/6, it was clearly mentioned by respondent No.2 that he had got the said FIR registered on the basis of suspicion although the petitioners were not present at the spot. More so, on demarcation, it was established that petitioner No.1 and her husband are owners in possession of the property in question and respondent No.2 was to make a statement for quashing/cancellation of the FIR, Annexure P/3.

4. Learned senior counsel for the petitioner further contended

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that the matter stands amicably settled. Agreement was duly signed by respondent No.2 as well as witnesses, including Yadwinder Singh, Lambardar, Jaspal Singh, Panch etc. Though, petitioner No.1 had not committed any wrong, but since the wife of Meharban Singh and Manjit Kaur, who are ladies had been illegally involved by respondent No.2, the petitioners alongwith husband of petitioner No.1 paid a sum of Rs.2,00,000/- in lieu of said compromise and the said fact is also proved on record as per statements/affidavits of Yadwinder Singh, Lambardar, Jaspal Singh, Panch and Rakesh Kumar, copies of which have been placed on record as Annexures P/7, P/8 and P/9 respectively. However, now respondent no. 2 is back-tracking from the compromise, Annexure P/6 and is not making statement to the Police, nor he has returned the money. As such, the present FIR and all subsequent proceedings arising therefrom be quashed.

5. In the reply, respondent No.2 has admitted the pendency of civil suit and the fact that in the civil suit, vide order dated 2.6.2012, parties were directed to maintain status-quo. As per respondent No.2, petitioners alongwith some unknown persons criminally trespassed into his house on 23.05.2012 in the night and attacked him and his family, consisting of his wife, kids, brothers family and old mother. The petitioners also uttered derogatory, un-parliamentary as well as abusive language to respondent No.2. He has placed on record few photographs depicting picture of the incident and damaged *Dargah* and house of respondent No.2 as Annexure R-2/1.

6. However, in the reply, respondent No.2 took the plea that the

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petitioners and Meharban Singh pressurized him to effect the compromise. The said compromise was not materialized as the petitioners did not respect the terms and conditions of the compromise and what to talk of Rs.2.00 Lakhs as alleged, they did not pay even a single penny to respondent No.2. As regards to enquiry having been conducted by Deputy Superintendent of Police (D), it was contended that the same was questioned by respondent No.2 by moving a representation to Senior Superintendent of Police, Nawanshehr, who directed re-investigation.

7. Learned counsel representing respondent no.2 also raised contention that there are no grounds for quashing of FIR. Compromise, Annexure P/6 was not materialized. No amount was paid to respondent No.2. As such, it was prayed that the present petition be dismissed.

8. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the considered view that the controversy involved in this case is whether FIR, Annexure P/3 is a correct version and legal action is required to be taken on the same or, the same is a mis-use of the process of law in any way.

9. Complainant, Mohinder Pal (respondent No.2) reported the matter to the Police and on his following statement, the FIR, Annexure P/3 was registered. The relevant extract from the FIR, Annexure P/3 is reproduced below:-

“.... I am resident of the above said address. Our residential house comprises in Khasra No. 19/1127, measuring about 2 Kanals 1 Marla. Meharban Singh's wife Kamaljit Kaur and their acquaintance Manjit Kaur, resident of Phargwara, hired some unidentified person from outside

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and attacked our house in the night of 23.5.12 and after attaching leveller with their tractor 475 Mahindra, demolished the *dargah of Peers* situated opposite our house which is known as Baba Chimte Shah dargah and also demolished the wall of our house. They issued threats of life to our family and also used derogatory words against our caste. Action be initiated against Kamaljit Kaur, Manjit Kaur and unidentified persons and justice be imparted to us. They got inflicted injuries to our mother through unidentified persons. The expenses for medical treatment for our mother may be got provided from them. I have heard the statement, which is correct. Till now, talks were going on for compromise but to no avail. Sd/- Mohinder Pal. ..”

10. If the contents of the FIR are taken to be correct, initially allegations were against Parmpreet Kaur (wrongly written in the FIR as Kamaljit Kaur) wife of Meharban Singh and Manjit Kaur and some unknown persons, who had attacked his house during the night of 23.05.2012. As per the complainant, the said persons were having leveller with their tractor 475 Mahindra and they had also demolished the *Dargah of Peers* situated opposite to their house. At that time, threats were advanced to the life and family members and the accused persons also used derogatory words. The complainant had also grievance that certain injuries were caused to his mother through unidentified persons and he asked for re-imbursement of medical expenses. First of all, the allegations are against Kamaljit Kaur and Manjit Kaur and some unidentified persons. The particulars of said unidentified persons were never disclosed at any stage. It is also not disputed anywhere that no registration number of the

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tractor has been given though FIR was got registered after five days of alleged occurrence. As per the complainant, injuries were caused to his mother, but there was no Medico Legal Report establishing the said fact and the complainant had simply sought reimbursement of medical expenses.

11. The most important fact, which requires consideration by this Court is that respondent No.2 in his reply has admitted that civil litigation was going on between the parties and the case of the present petitioners is that registration of FIR, Annexure P/3 is a counter-blast to the said civil litigation and the sequence of events establish that thing.

12. The complainant has levelled allegations regarding criminal trespass or house-trespass, but as per copy of jamabandi, Annexure P/4 and khasra girdawari, Annexure P/5, respondent No.2 is not shown to be in possession of khasra No.19//27.

13. More so, in this case an enquiry conducted by Deputy Superintendent of Police (D), who had submitted his report that the complaint filed by respondent No. 2 is false and FIR requires to be cancelled. As regard to the plea taken by learned counsel for respondent no.2 that the said report was challenged by respondent No.2 before Senior Superintendent of Police, Nawanshehr, who ordered reinvestigation, it may be mentioned that as per instructions dated 14.1.2009 (Annexure P/10) issued by Additional Director General of Police/Crimes, Punjab, the enquiry agencies of Punjab Police were directed that not more than one enquiry in a registered case was required to be conducted at their own level and in case, the necessity of holding second enquiry is felt, prior

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sanction of the Director General of Police, Punjab was to be obtained.

14. The another important fact in this case is that the petitioners have come with the plea that the compromise was effected between the parties and the written compromise was executed between the parties in the presence of witnesses, copy of which is available on the file as Annexure P/6. In the said compromise, firstly, respondent No.2 had admitted all the above detailed allegations, as contained in the FIR to be factually incorrect. Secondly, as per said compromise, Annexure P/6, payment of Rs.2.00 lakhs was made to respondent No.2 and that means compromise was implemented in letter and spirit. But, still respondent No.2 is not coming forward to make the statement as voluntarily agreed by him. All these facts establish that the proceedings on the basis of FIR, Annexure P/3, are complete mis-use of the process of law.

15. Law on the point of quashing of FIR has been laid down by Hon`ble Apex Court in case **State of Haryana and others vs. Ch. Bhajan Lal and others**, 1992 AIR (SC) 604, wherein Hon`ble Apex Court observed as under:-

“105. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers Under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First

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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 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.
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.”

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16. In view of above, the instant petition is accepted. Consequently, the impugned FIR No. 56 dated 28.05.2012 (Annexure P/3) under Sections 452, 295, 427, 323, 148, 149, 506, 447, 511, 120-B IPC registered at Police Station Rahon, District SBS Nagar and all subsequent proceedings arising therefrom are hereby quashed qua the petitioners.

17. The present petition stands allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

September 02, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes