

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-41813-2019 (O&M)
Date of Decision:- 27.9.2019

Jobanpreet Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rajiv Joshi, Advocate, for the petitioners.

GURVINDER SINGH GILL, J.

1. The petitioners have approached this Court seeking quashing of FIR No.105, dated 12.10.2016, registered at Police Station Lambran District Jalandhar, under Sections 323, 341, 354, 148, 149 IPC.
2. The FIR in question was lodged at the instance of Love Kumar @ Love, wherein it has been alleged that his father has a plot measuring 4 marlas in Colony Hussainpur, around which a boundary wall had been constructed about $\frac{3}{4}$ years back. It is alleged that the said plot had been mortgaged by his father to Ram Murti. It is alleged that on 5.10.2016 at about 12.30 pm. Hardeep Singh, his son Parminder Singh, Harnek Singh, Tara Singh, Onkar Singh, Harman Singh,

Sukhwinder Singh and Jobanpreet Singh, came in a white coloured i20 car bearing registration No.PB-08-CW-8887 and started breaking the locks of the plot in question. When the complainant objected to the same and told them that the said plot belongs to his father and that they cannot take possession of the same, the accused gave blows to him on his forehead, face, lips, chest and back. When the complainant raised alarm, his wife and some other persons came forward to rescue him and upon which the accused tore clothes of his wife. It is further alleged that Harman Singh with an intention to kill him pointed his 'double barrell gun' towards them. Parminder Singh-accused however, stated that he would not be able to fire from the said weapon and asked him to hand over the gun to him. Later, the complainant was taken to Civil Hospital, Jalandhar, and the matter was also reported to the police but since talks of compromise were also initiated by the respectables, the said matter was kept in abeyance. Later, since no compromise could be arrived at, the FIR was lodged.

3. Learned counsel for the petitioners has submitted that the FIR is nothing but an abuse of process of law and has been lodged to pressurize the petitioners, especially petitioner No.3-Hardeep Singh, who had been successful in getting a decree in respect of the property in question and regarding which warrants of possession had also been issued. Learned counsel in this regard has drawn the attention of this Court to ex-parte judgment dated 19.8.2014 (Annexure P-2) rendered

in “*Civil Suit No.58091, dated 30.11.2013, titled as Hardeep Singh alias Kala Vs. Surti Lal*”.

4. I have considered the aforesaid submissions and have also perused the above referred judgment. Although, it does appear that ex-parte decree for specific performance of agreement to sell has been passed in favour of petitioner No.3-Hardeep Singh, but this Court finds that there is nothing on record to show as to how complainant-Love Kumar is connected with the aforesaid decree in favour of petitioner No.3 in any manner, since the said ex-parte decree was passed against defendant-Surti Lal and not against present complainant-Love Kumar.
5. A perusal of the FIR would show that specific and categorical allegations have been levelled against the petitioners, who are specifically named therein. At this stage, it cannot be said with certainty that the FIR has been lodged falsely and it is a matter to be yet inquired into by the police.
6. A reference in this context has been made by Hon'ble the Supreme Court in *State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335* enumerated the categories of cases where inherent powers under Section 482 Cr.P.C. could be exercised for quashing FIR as follows:

“102. 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 extraordinary 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 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 FIR 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 FIR 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.”

7. It was further held therein as follows:

“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

8. In another recent case Dineshbhai Chandubhai Patel Vs. State of Gujarat, (2018) 3 SCC 104 the Hon'ble Supreme Court held as follows:

“29. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot act like an investigating agency and nor can exercise the powers like an appellate court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and *prima facie* material, if any, requiring no proof.

30.

31. In our considered opinion, once the court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure prescribed in the Code.”

9. The aforesaid position has again been reiterated by Hon'ble the Supreme Court in a very recent judgment delivered on 31.7.2019 in Criminal Appeal No.1082 of 2019 Chilakamarthi Venkateswarlu and another Vs. State of Andhra Pradesh and another wherein it has been held as follows:

“15. In exercising jurisdiction under Section 482 it is not permissible for the Court to act as if it were a trial Court. The Court is only to be *prima facie* satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate materials and documents on record, but it

cannot appreciate the evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

16. The High Court should not, in exercise of jurisdiction under Section 482, embark upon an enquiry into whether the evidence is reliable or not, or whether on a reasonable appreciation of the evidence the allegations are not sustainable, for this is the function of the trial Judge.....”

10. Bearing in mind the ratio of the above cited judgments and the fact that there are specific and categoric allegations against the petitioners, this Court does not find any ground for quashing of the FIR at this stage.

11. The petition is sans any merit and is hereby dismissed.

September 27, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No