

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 49018 of 2019
Date of Decision: 18.11.2019

Younus Alvi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Mohammad Arshad, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

This petition has been filed quashing of FIR No. 43 dated 15.10.2019 registered under Sections 126 and 127 of Representative of People Act, 151 and Section 171 IPC, Police Station City Nuh, District Nuh-Mewat and all the consequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the petitioner has been working as Journalist as also the Lambardar of his village since 1992. He is 100% disabled and remained elected member of Zila Parishad w.e.f. 2000-05. It is further submitted that the face-book account of the petitioner had been misused by his colleague(s), which is why the alleged objectionable facebook post was made from his said account. It is further stated that the petitioner has nothing to do with the alleged contents of the facebook post and he had deleted the said contents the moment he came to know about the same. Reference has been made to application made by the petitioner to respondent No.3 in this regard.

The petitioner does not dispute the alleged contents having

been posted from his facebook account and the circulations thereof. The sole ground for seeking the quashing of FIR is the misuse of the petitioner's facebook account by his colleague(s). However, it is very surprising that though the petitioner alleges that his facebook account had been misused by his colleague(s), yet there is neither any name disclosed nor identity of any such colleague of the petitioner, who was allegedly having access to his facebook account, has been disclosed. All these things are material aspects of the case, which can only be ascertained during the process of investigation.

Still further, the petitioner has made no averments in the petition regarding his having applied for the anticipatory or regular bail which clearly shows that he has not till date joined the investigation. There are disputed questions of fact, which can only be ascertained by a detailed and thorough investigation.

By seeking the quashing of the FIR, the obvious effort of the petitioner is to scuttle the investigation process. The Hon'ble Supreme Court in ***Munshiram Vs. State of Rajasthan and another (2018) 5 Supreme Court Cases 678***, while setting aside the order passed by the High Court whereby the FIR was quashed by exercising the inherent power under Section 482 Cr.P.C., has held that such power should be exercising cautiously and not otherwise. It was held as under:

“10. Having heard the learned counsel for both the parties and perusing the material available on record we are of the opinion that the High Court has prematurely quashed the FIR without proper investigation being conducted by the Police. Further, it is no more res integra that [Section 482](#) of CrPC has to be utilized cautiously while quashing the FIR. This court in a catena of cases has quashed FIR only after it

comes to a conclusion that continuing investigation in such cases would only amount to abuse of the process. In this case at hand, the court abridged the investigation which needed to ascertain certain factual assertions made in the FIR concerning the existence or non-existence of any prior mental condition of the deceased prior to the commission of suicide.”

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13. In light of the fact that the enquiry was pending and there are aspects which may require investigation, we are of the considered opinion that the High Court erred in quashing the FIR at the threshold itself without allowing the investigation to proceed. We cannot agree with the reasons provided under the impugned judgment concerning certain factual assertions made by the Respondents as to the condition of the deceased and reasons for committing suicide because acceptance of the said would not be in consonance with the settled jurisprudence under [Section 482](#) of CrPC as laid down by various judgments of this Court.”

Thus, it is settled law that the power under Section 482 Cr.P.C. are to be exercised by the Court sparingly and in extra-ordinary circumstances when it is apparent that the continuing with the criminal prosecution would result into either the manifest injustice or the same is an abuse of process of law. None of the ingredients are attracted in the instant case.

Finding no merit in the present petition, the same is dismissed.

November 18, 2019
Gurpreet

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No