

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

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Reserved on : 15.10.2019

Pronounced on : 22.10.2019

+ **CRL.M.C. 4451/2019**

MEENA DABAS

..... Petitioner

Through: Mr. Mohit Mathur, Sr. Adv. with Ms.
Aashita Khanna and Mr. Mukesh
Kumar, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State.
Insp. Balbir Singh.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

1. The petitioner has filed the present petition U/s 482 of the Code of Civil Procedure seeking quashing of F.I.R. bearing No. 761/2014 U/s 420 IPC registered at P.S. Shahabad Dairy and charge sheet dated 03.05.2016 pending adjudication before the Court of Sh. Manu Goel Kharab, Ld. MM, Rohini Courts, Delhi.

2. The facts of the case are that one Bhushan Jain filed a complaint U/s 156 (3) Cr.P.C and the Ld. M.M vide order dated 04.07.2014, issued directions to register an F.I.R. In his complaint, the complainant Bhushan Jain has alleged that he is the lawful owner of
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property No. B-250, Khasra No. 277, Prahalad Vihar, Near Sector 25 Rohini, Delhi which he had purchased on 04.09.2009 from the erstwhile owner Usha Gupta and has also taken possession of the said property. He alleged that on 25.12.2013, petitioner alongwith few musclemen forcefully entered into his said property and threatened him of dire consequences. He further alleged that on 27.12.2013, petitioner again forcefully entered into the said property and threatened the wife of the complainant with dire consequences. The complainant also alleged that the petitioner claimed herself to be the owner of the said property on the basis of some false and forged documents. Accordingly, an FIR bearing No. 761/14 dated 07.07.2014 U/s 420 IPC was registered at PS Sahabad Dairy.

3. During the investigation, the chain of documents pertaining to the said property were collected from the complainant who had purchased the said plot from Usha Gupta through notarized GPA and registered Will on 13.08.2009. The said Usha Gupta had purchased the said plot through registered sale deed from Shiv Dhan Sharma on 23.03.1989 and Shiv Dhan Sharma had purchased the said plot from Vijay Kumar Goel vide registered sale deed on 25.03.1985 and now the possession of the property in question is with the complainant.

4. The petitioner also produced her chain of documents as per which the said property was sold by Vijay Kumar S/o Lakshmi Narayan on 15.04.1985 through sale deed to Vijay Kumar S/o Mahbir Parsad and further Vijay Kumar s/o Mahabir Parsad sold it to Devanand (father of the petitioner) on 30.04.91 through G.P.A. During the course of the investigation one sale

deed executed by Devanand in favour of Arun Kumar came into notice and it was verified which indicated that the petitioner has no role regarding the possession of the plot in question. After the completion of the investigation, charge sheet U/s 448/506/34 IPC was filed in the Court on 03.05.2016 without her arrest.

5. I have heard the Ld. Sr. Counsel for the petitioner, Ld. Addl. PP for the state and have also gone through the records of the case.

6. It is submitted by the Ld. Sr. Counsel for the petitioner that the petitioner has been falsely implicated because initially the complaint was filed U/s 420/464/468/471 R/w 120 B IPC but during the investigation all the allegations could not be proved which suggested that the complaint has only been filed to harass the petitioner. He further urged that the allegations made in the charge sheet and evidence collected during the investigation is improbable and the charge sheet is completely vague. He further urged that the Civil Suit filed by the complainant titled as Bhushan Jain Vs. Meena Dabas has already been dismissed by the Civil Judge vide order dated 22.03.2019.

7. On the other hand, Ld. Addl. PP for the State has submitted that initially the FIR was registered U/s 420 IPC and during the investigation it was found that no case U/s 420 IPC is made out against the petitioner, so on the basis of the other allegations in the FIR, the charge sheet was only filed U/s 448/506/34 IPC, which shows that proper and fair investigation has been done by the IO and the charge sheet has been filed on the basis of the material available. The Ld. Addl. PP for the State further submitted that the CRL. MC 4451/2019

complainant has made specific allegations against the petitioner having entered the property in question on 25.12.2013 and 27.12.2013 and threatening the complainant with dire consequences. He further submits that there is enough evidence against the petitioner and the petition is liable to be dismissed.

8. The Hon'ble Supreme Court has summarized the following broad principles in relation to Section 482 for quashing of FIR :

(i) [Section 482](#) preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction

under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant

element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

9. I have considered the charge sheet filed on record and I am satisfied that the investigating agency has material to connect the petitioner with the subject crime. It cannot be said that it is a case of no evidence against the petitioner. The investigating officer has recorded the statement of the

complainant and his wife who have stated about the incident which occurred on 25.12.2013 and 27.12.2013.

10. At this stage, the veracity of their statements could not be tested and the same can only be tested at the time when they appear before the Ld. Trial Court for their cross examination. At this stage, it cannot be said that the present case is a case of no evidence and the allegations of trespass and threats against the petitioner were made by the complainant at the first opportunity. In view of the discussions mentioned hereinabove, I cannot accede to the prayer of the petitioner. The petition is accordingly dismissed.

11. By way of precaution, I make it clear that the observations herein in this order are prima facie in nature and made for the limited purpose of deciding the issue raised in this petition, and the trial Court or any other Court shall not be influenced by the observations made in this order.

RAJNISH BHATNAGAR, J

OCTOBER 22, 2019

Sumant