

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

% **Reserved on : 22.10.2019**
Pronounced on : 28.01.2020

+ **W.P.(CRL.) 2820/2019**

DEVENDER

..... Petitioner

Through: Mr. Jagat Singh, Advocate.

versus

THE STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Sanjay Lao, ASC with Mr.
Karanjeet Rai Sharma, Adv.

SI Sandeep, SI Manjeet.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

CRL. M.A.37411/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

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ORDER

1. The petitioners have filed the present writ petition U/s 226 of the Constitution of India read with section 482 Cr.P.C for quashing of the FIR bearing No. 0294/2019 dated 12.08.2019 U/s 186/353/34 IPC registered at police station Fatehpur Beri, New Delhi.

2. In brief the facts of the case are that the above said FIR was registered on the complaint of SI Manjeet Kumar of PS Fatehpur Beri. It is alleged in the FIR that on 11.08.2019 a PCR call was received at P.S. Fatehpur Beri regarding a property dispute between Devender Singh and his brother Karambir Singh. They both came to the police station and started quarrelling. At that time petitioner No. 1 Devender Singh was under the influence of liquor. Complainant SI Manjeet Kumar who was sitting in his office tried to pacify both the parties but petitioner No. 1 Devender Singh was adamant and behaved rudely and also used abusive language against his brother Karambir. One Rajesh Chauhan (petitioner No. 4) and his wife Lalita Bhati (petitioner No. 5) had also accompanied the petitioner No. 1 Devender and they also used abusive language against Karambir. Complainant SI Manjeet Kumar tried to stop them but they started abusing and threatening complainant SI Manjeet Kumar.

3. It is alleged in the FIR that petitioner No. 1 Devender in the presence of complainant proceeded towards Karambir to beat him and when complainant tried to stop him petitioner No. 1 Devender started abusing the complainant loudly and said that he would get his uniform removed and he don't know him and that he is the brother of Krishan Pal Gujjar who is worth 500 Crores and thereafter petitioner No. 1 banged his head on the wall. Petitioner No. 1 started shouting and throwing the files which were lying on the table of the complainant. He also threw paper weight on the wall and scratched the wall with the paper weight. Complainant tried to

control him but in the meanwhile Petitioner No. 4 Rajesh Chauhan and petitioner No. 5 Lalita Bhati also started shouting.

4. Complainant asked petitioner No. 1 to accompany him to the hospital but he again abused the police and said that he would not go to the hospital and asked petitioner No. 5 Lalita Bhati to inform the press and CBI and also to call boys in the police station. Petitioner No. 5 Lalita Bhati and Petitioner No. 4 Rajesh Chauhan made several calls and on their calls many boys came to the police station. When complainant, SI Cheetarmal, H.C. Jasbir and Ct. Harender were asking the petitioner No. 1 to go for treatment, at that time the persons who were called by Petitioner No. 4 Rajesh Chauhan and petitioner No. 5 Lalita Bhati started misbehaving and pushing the police officials. Petitioner No. 1 lay in the courtyard of the police station and refused to go to the hospital in the police vehicle. In the meanwhile son of the petitioner No. 1 came in a car so the complainant allowed son of petitioner No. 1 to take him to AIIMS for treatment as it was necessary. Thereafter, complainant SI Manjeet filed a complaint on the basis of which the present FIR was registered.

5. I have heard the Ld. counsel for the petitioners, Ld. ASC for the state (respondent No. 1), complainant SI Manjeet (respondent No. 2) in person and also perused the status report filed by the state (respondent No. 1).

6. It is submitted by the Ld. counsel for the petitioners that many complaints are pending against respondent No. 2 and his associates before the higher police authorities and a writ petition has also been filed in the High Court in this regard in order to find out involvement of respondent No. WP (CRL.) 2820/2019

2, his associates and other land grabbers. He further urged that the present FIR has been registered against the petitioners in order to pressurize them so that they may not take action against respondent No. 2 and his associates. He further urged that as per the complaint petitioner No. 1 has banged his head himself against the wall and received injuries but in the ordinary course of nature the injuries sustained by the petitioner No. 1 cannot be received by banging one's head against the wall and by no stretch of imagination the injury on the head of petitioner No. 1 can be said to be self inflicted. It is further urged that the CCTV footage would clearly show the illegal activities of respondent No. 2 and his associates and now respondent No. 2 and SI Arvinder have been transferred from PS Fatehpur Beri. He further urged that more than 100 complaints have been filed against respondent No. 2 and SI Arvinder Singh by the villagers but no action have been taken against them.

7. Ld. A.S.C. for the state (respondent No. 1) has argued on the lines of the status report. It has been stated in the status report that petitioner No. 1, petitioner No. 4 Rajesh Chauhan, Sahil (petitioner No. 3) and Sumit (petitioner No. 2) have been arrested and released on bail. It is further stated that during the further course of investigation, petitioner No. 5 Lalita Bhati was also interrogated and statement of Karambir Singh son of Kharak Singh who is the brother of petitioner No. 1 has also been recorded wherein he has stated about the misbehave and violent behaviour of petitioner No. 1. Statement of eye witnesses have also been recorded U/s 161 Cr.P.C., report of crime team and photographs of place of occurrence have also been

obtained, investigation is complete and the file is under scrutiny with the prosecution branch. It is also stated in the status report that petitioner No. 1 is a bad character of the area and is involved in 17 cases details of which are as follows :-

Sr. no.	FIR	U/S	Police Station
1.	05/87	376,506,34 IPC	PS Mehrauli
2.	144/89	354, 34 IPC	PS Mehrauli
3.	437/94	365,342,506,34 IPC	PS Hauz Khas
4.	159/97	447 IPC	PS Mehrauli
5.	63/2000	323,324,34 IPC	PS Mehrauli
6.	446/2000	451, 323, 34 IPC	PS Mehrauli
7.	517/02	325,34 IPC	PS Mehrauli
8.	834/04	308,34 IPC	PS Mehrauli
9.	352/05	323, 341, 506, 34 IPC	PS Mehrauli
10.	53/09	308, 323,341,427, 506, 34 IPC	PS Fatehpur Beri
11.	286/12	341,326,34 IPC	PS Fatehpur Beri
12.	434/14	186, 353,34 IPC	PS Fatehpur Beri
13.	554/14	308,341,34 IPC	PS Fatehpur Beri
14.	442/16	323, 341, 354, 354 B, 506, 34 IPC	PS Fatehpur Beri
15.	221/18	308, 341, 506, 34 IPC	PS Fatehpur Beri
16.	432/18	323,341,506, 34 IPC & 3 SC/ST Act	PS Fatehpur Beri

17.	294/19	186, 353, 34 IPC	PS Fatehpur Beri
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8. It is further stated by the Ld. A.S.C. that this is not a case where the FIR can be quashed as there are serious allegations against the petitioners.

9. The Hon'ble Supreme Court, after discussing various precedents on the subject, 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 recognizes 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;
 - a. to secure the ends of justice or
 - b. 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 has 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 flavor 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 misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

10. In the instant case, the allegations against the petitioners are serious and involved questions of facts which can only be decided at the time of trial. The prosecution has already recorded the statement of public witnesses and under these proceedings, it is not for the Court to exercise its extraordinary jurisdiction U/s 226 of the Constitution of India read with section 482 Cr.P.C for quashing of the present FIR as prayed by the petitioners in the present petition. The contention raised by the counsel for the petitioners that complainant and ASI Arvinder are land grabbers and many complaints have been filed against them. In this regard, as per the petitioners themselves, DCP has been directed to look into the complaints against the complainant SI Manjeet and ASI Arvinder so in any case, if anything comes adverse against the respondent No. 2 and ASI Arvinder, the law will take its own course against them.

11. It has been vehemently argued by the counsel for the petitioners that the injuries on the petitioner No. 1 cannot be said to be self inflicted but again no opinion in this regard can be given by this Court in these proceedings as to whether the injuries are self inflicted or they have been inflicted by respondent No. 2 or other police officials. As stated in the status report the statement of Karambir who was present at the police station at the relevant time has been recorded and the statement of other public witnesses have also been recorded, therefore, this contention of the Ld. counsel for the petitioner is also a matter of trial as again the testimonies of the public witnesses cannot be analyzed in these proceedings.

12. Therefore, from the perusal of the FIR, I am of the opinion, that allowing the present petition would be a miscarriage of justice and ends of justice require

that the proceeding ought not to be quashed. Accordingly the present petition is dismissed.

13. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

JANUARY 28, 2020

Sumant

