

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CRM-M-15598-2021
Date of decision: 08.04.2021**

Maninder SinghPetitioner

Versus

State of Haryana and anotherRespondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present: Mr. Abhay Gupta, Advocate for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of FIR No. 187 dated 31.08.2020 registered under Sections 323, 354, 354-A and 506 of the Indian Penal Code, 1860 (for short 'the I.P.C.') at Police Station DLF Phase-1, District Gurugram along with all other subsequent proceedings arising therefrom.

2. The above said FIR was registered on written complaint submitted by respondent No.2-Sonia Singh to the SHO, Police Station DLF Phase-1, Gurugram. In the written complaint respondent No.2-Sonia Singh alleged that she is working in Indigo Company and her Senior Manager is Maninder Singh (the petitioner). The petitioner has bad intention towards her for the last many days. He, on the pretext of having friendship with her, made her to sit in his car and forcibly tried to do bad act with her in Delhi Terminal-1 Parking in the month of March before the lockdown. When she objected to the same he forcibly

kissed her and continued repeatedly kissing her despite her objection. When she objected he told her that he would continue to support her in her job and continued to tease her. On her objection he threatened to terminate her from job and also to kill her. On 13.08.2020 at about 07:00 or 07:30 P.M. in the parking of Indigo Company he caught her and started insisting her to go with him stating that he had to do something and touched his hands on her breast. When she started objecting he started abusing her and went from there saying that if she would tell anybody in the company then along with her job, her reputation would be spoiled. The police investigated the case, joined the petitioner in investigation by serving notice under Section 41A of the Cr.P.C. and on completion of investigation, on finding evidence to be sufficient against the petitioner filed charge-sheet against him.

3. The petitioner has filed the present petition pleading that respondent No.2, appointed as contractual employee for one year in July, 2019, was not having good health and was in depression due to which she fell unconscious during office hours. The petitioner being the Manager took her counselling sessions lasting about nine months during which respondent No.2 shared various personal things to the petitioner. Despite having knowledge that the petitioner has a family and kids respondent No.2 started claiming that she is feeling attached with the petitioner as he is understanding her. Due to Covid-19 pandemic the office was closed for sixty days but respondent No.2 remained in contact with the petitioner through calls and WhatsApp chats as and when she needed a cold shoulder regarding her personal issues. After resumption of work, whenever the petitioner and

respondent No.2 had the same duty roster the petitioner used to drop respondent No.2 on her request to the nearest auto stand due to lower availability of public transport. On 18.06.2020, respondent No.2 got tense about the termination of contract of her colleague and called up the petitioner for help for renewal of her contract and contract of her colleague but the petitioner did not want to get himself involved and forwarded the contract details of concerned department EVA to respondent No.2 to whom she could redress her grievance. This particular guidance made respondent No.2 more inclined towards the petitioner and her liking towards him increased drastically. Respondent No.2 even used to call the petitioner especially in her close family functions and also made her parents to especially meet the petitioner. In July, 2020 after an year of working together, when the petitioner and respondent No.2 were comfortable with each other, respondent No.2 in another session of counselling revealed a deep secret about her past and another cause of depression that she had issues with the Manager of the previous company against whom she made similar allegations who apologized and paid compensation as demanded by respondent No.2 to close the issue. Thereafter, on better wisdom prevailing, the petitioner started distancing himself from respondent No.2. On 13.08.2020, respondent No.2 pressurized the petitioner to meet her and accompany her to home and come back again to office as she wanted to discuss something important which could not be spoken on phone. She continuously started messaging the petitioner due to which the petitioner had to block her number on WhatsApp. Respondent No.2 waited for the petitioner to get free, followed him through the office

premises to the parking lot and tried to sit in his car and pressurized the petitioner to speak to her and not to break the relationship. There was heated argument between the petitioner and respondent No.2 which was witnessed by the guards in the parking who were sent back by respondent No.2 by saying that they were just discussing some issues between them. The petitioner made her understand that these things should not be discussed at office place and further promised to speak about it in coming days. The petitioner had conveyed to respondent No.2 on earlier occasions also that the bond they are sharing could not continue for long as it is hampering his family and professional life and suggested to respondent No.2 to focus on her career, family and getting married soon on which respondent No.2 got annoyed. The petitioner brought everything in the notice of Mr. Sharad, HR Manager and Ms. Priyanka Mendiratta, Associate Director. As suggested by Mr. Sharad, HR Manager, the petitioner sent an email to him on 14.08.2020 informing him about the said incident with request to change the department of respondent No.2. Respondent No.2 filed a complaint dated 14.08.2020 with the police as a counter blast to the above said complaint made by the petitioner through email to the employer authorities. Respondent No.2 settled the matter with the petitioner and convinced him to withdraw his complaint and to show her bona fide she also sent a letter to the police authorities that she does not want any action on her complaint. On requests and apologies made by respondent No.2 the petitioner took back his complaint on 17.08.2020. Respondent No.2 was herself pressurizing the petitioner to meet her by sending messages and herself wanted to be with the petitioner, waited for him

after office and followed him to the parking. After withdrawal of his complaint by the petitioner, respondent No.2 got the present FIR registered against the petitioner on 31.08.2020 after 17 days of the incident on concocted allegations to take revenge for rejection of one sided love affair and failure to fulfil unjustified demand of respondent No.2. The photographs of the self-inflicted injuries were given by respondent No.2 to the police to falsely implicate the petitioner. The petitioner had never been involved in any activity or offences involving moral turpitude during his career span of 20 years. The petitioner has accordingly prayed for quashing of the above-said FIR along with all subsequent proceedings arising therefrom.

4. I have heard learned Counsel for the petitioner and gone through the record.

5. Learned Counsel for the petitioner has reiterated the factual averments made in the petition and vehemently argued that the FIR was lodged by respondent No.2 mala fide on concocted allegations for taking revenge against the petitioner for his refusal to have relationship with her and the FIR and all consequential proceedings arising therefrom are gross abuse of the process. Therefore, the FIR alongwith final report and all subsequent proceedings arising therefrom may be quashed for preventing abuse of process and securing the ends of justice.

6. On perusal of the material on record and consideration of the submissions made by the learned Counsel for the petitioner I am of the considered view for the reasons to be hereinafter mentioned that the petition is devoid of any merit and is liable to be dismissed.

7. Section 482 of the Cr.P.C., which saves inherent powers of the High Court, reads as under :-

"482. Saving of inherent powers of High Court.- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

8. In ***State of Haryana and others Vs. Bhajan Lal and others : 1991(1) R.C.R. (Criminal) 383*** Hon'ble Supreme Court observed as under:-

"107. 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 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 F.I.R. 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.*

108. *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 F.I.R. 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.”* (emphasis supplied)

9. In ***Rishipal Singh v. State of U.P. And another 2014(4)***

Recent Apex Judgments 324 Hon'ble Supreme Court observed as under:-

“10.A bare perusal of Section 482 Cr.P.C. makes it crystal clear that the object of exercise of power under this section is to prevent abuse of process of Court and to secure ends of justice. There are no hard and fast rules that can be laid down for the exercise of the extraordinary jurisdiction, but exercising the same is an exception, but not a rule of law. It is no doubt true that there can be no straight jacket formula nor defined parameters to enable a Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The Courts have to be very circumspect while exercising jurisdiction under Section 482 Cr.P.C.

*11. This Court in **Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. And Others, 2000(3) SCC 269**, has discussed at length about the scope and ambit while exercising power under Section 482 Cr.P.C. and how cautious and careful the approach of the Courts should be. We deem it apt to extract the relevant portion from that*

judgement, which reads:

"Exercise of jurisdiction under inherent power as envisaged in section 482 of the Code to have the complaint or the charge sheet quashed is an exception rather than rule and the case for quashing at the initial stage must have to be treated as rarest of rare so as not to scuttle the prosecution with the lodgement of First Information Report. The ball is set to roll and thenceforth the law takes it's own course and the investigation ensures in accordance with the provisions of law. The jurisdiction as such is rather limited and restricted and it's undue expansion is neither practicable nor warranted. In the event, however, the Court on a perusal of the complaint comes to a conclusion that the allegations levelled in the complaint or charge sheet on the fact of it does not constitute or disclose any offence alleged, there ought not to be any hesitation to rise up to the expectation of the people and deal with the situations as is required under the law. Frustrated litigants ought not to be indulged to give vent to their vindictiveness through a legal process and such an investigation ought not to be allowed to be continued since the same is opposed to the concept of justice, which is paramount".

12. This Court in plethora of judgments has laid down the guidelines with regard to exercise of jurisdiction by the Courts under Section 482 Cr.P.C. In **State of Haryana v. Bhajan Lal 1992 Supp(1) SCC 335**, this Court has listed the categories of cases when the power under Section 482 can be exercised by the Court. These principles or the guidelines were reiterated by this Court in **(1) Central Bureau of Investigation v. Duncans Agro Industries Ltd. 1996 (5) SCC 592; (2) Rajesh Bajaj v. State NCT of Delhi 1999 (3) SCC 259 and; (3) Zandu Pharmaceuticals Works Ltd. v. Mohd. Sharaful Haque & Anr., 2004(4) R.C.R. (Criminal) 937 : (2005) 1 SCC 122**. This Court in **Zandu Pharmaceuticals Ltd.**, observed that:

*"The power under section 482 of the Code should be used sparingly and with to prevent abuse of process of Court, but not to stifle legitimate prosecution. There can be no two opinions on this, but if it appears to the trained judicial mind that continuation of a prosecution would lead to abuse of process of Court, the power under section 482 of the Code must be exercised and proceedings must be quashed". Also see **Om Prakash and Ors. v. State of Jharkhand 2012 (12) SCC 72**.*

What emerges from the above judgments is that when a

*prosecution at the initial stage is asked to be quashed, the tests to be applied by the Court is as to whether the uncontroverted allegations as made in the complaint prima facie establish the case. The Courts have to see whether the continuation of the complaint amounts to abuse of process of law and whether continuation of the criminal proceeding results in miscarriage of justice or when the Court comes to a conclusion that quashing these proceedings would otherwise serve the ends of justice, then the Court can exercise the power under Section 482 Cr.P.C. **While exercising the power under the provision, the Courts have to only look at the uncontroverted allegation in the complaint whether prima facie discloses an offence or not, but it should not convert itself to that of a trial Court and dwell into the disputed questions of fact.***”
(emphasis supplied)

10. It follows from the above referred judicial precedents that in exercise of its inherent jurisdiction under Section 482 of the Cr.P.C., the High Court has only to scrutinize the FIR /complaint and take the allegations/averments made in the complaint on their face value and consider whether the same disclose commission of any cognizable offence; whether the continuation of the criminal proceedings would amount to abuse of process of law and would result in miscarriage of justice; whether the criminal proceedings are manifestly attended with mala fide and/or 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 and whether quashing of the criminal proceedings would serve the ends of justice. The power of quashing a criminal proceeding has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases so as not to scuttle the legitimate prosecution. In exercise of the power the High Court can not embark upon any roving enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and cannot convert itself to a trial Court to dwell into the

disputed questions of facts and record any findings. For judicial precedents reference may also be made to judgments of this Court in ***Gurbachan Singh Bhasin Vs. State of Punjab 2013 (4) RCR (Criminal) 512 and Arvind Vs. State of Haryana 2014 (38) RCR (Criminal) 290.***

11. In the present case the petitioner has inter alia claimed that respondent No.2 was herself pressurizing the petitioner to have the relationship with her and sent messages on 13.08.2020 asking him to meet her showing that she herself wanted to be with the petitioner, waited for him after office and followed him to the parking and that after withdrawal of his complaint dated 14.08.2020 by the petitioner on her apology, respondent No.2 got the present FIR registered against the petitioner on 31.08.2020 after 17 days of the incident on concocted allegations to take revenge for rejection of her one sided love affair by him and his failure to fulfil unjustified demand of respondent No.2 and that photographs of self-inflicted injuries were given by respondent No.2 to the police to falsely implicate the petitioner. The pleas taken in the petition are sum and substance of the defence version of the petitioner and the questions of facts involved have to be decided on the basis of evidence to be produced during trial and this court cannot enter upon making any roving enquiry and cannot convert itself to a trial Court to go into the questions of facts and adjudicate upon and record findings regarding the same in the instant petition in exercise of jurisdiction under section 482 of the Cr.P.C. Suffices it to observe that in the present case, if the allegations made in the First Information Report are taken at their face value and accepted in their entirety prima

facie case as to commission of offences punishable under Sections 323, 354, 354-A and 506 of the I.P.C. is made out against the petitioner. The petitioner was joined during investigation and on completion of investigation charge-sheet has been filed by the police against him claiming that there was sufficient evidence for proceeding against him. The allegations of sexual harassment require adjudication on the basis of evidence to be produced during trial and legitimate prosecution cannot be scuttled by quashing of the FIR, charge-sheet and subsequent proceedings arising therefrom on the basis of defence version of the petitioner which has to be proved by production of requisite evidence at the appropriate stage and cannot be accepted as gospel truth at this stage. In the facts and circumstances of the case, prima facie FIR lodged against the petitioner cannot be said to be mala fide and the criminal proceedings against him cannot be said to have been maliciously instituted to wreck vengeance on the petitioner for alleged rejection of one sided love affair of respondent No.2. Consequently, the FIR in question, charge-sheet filed against the petitioner and subsequent proceedings arising therefrom can not be said to be an abuse of process and no ground is made out for quashing of the same by exercise of powers under Section 482 of the Cr.P.C. for securing the ends of justice.

12. In view of the above, the petition, being devoid of any merits, is accordingly dismissed.

(ARUN KUMAR TYAGI)
JUDGE

08.04.2021

Vishal

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes