

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

**CRM-M-30504-2021
Date of decision : 25.08.2021**

Parminder Kaur @ Satnam KaurPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Argued by : Mr. Brijesh Nandan, Advocate for the petitioner.

ARUN KUMAR TYAGI, J.

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

1. The petitioner has filed the present **second** petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for quashing of FIR No.155 dated 15.06.2004 registered under Sections 420, 465, 467 and 468 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Division No.4, Jalandhar from which Section 467 of the IPC was deleted later on.

2. Her first petition for quashing of the above-said FIR was dismissed as withdrawn vide order dated 09.09.2013 passed by the Coordinate Bench of this Court.

3. The abovesaid FIR was registered on complaint dated 15.06.2004 made by the Passport Officer, Jalandhar to the Senior Superintendent of Police, Jalandhar. In the complaint the Passport Officer alleged that on 15.06.2004 he noticed the petitioner, against whom FIR No.20 dated 19.01.2004 was registered on allegations of fraudulently applying for and obtaining passport in the name of Satnam

Kaur, standing at the counter with Jaspal Singh. On being confronted the petitioner told him that she was merely accompanying Jaspal Singh. Jaspal Singh was found carrying a file in his hand containing passport application form duly filled in the name of Jaswinder Kaur on which photographs of the petitioner were affixed. Ration Card and duplicate School Certificate issued by the Principal, Government Senior Secondary School, Lambra bearing No.196 dated 16.04.1997 was also attached with the applicant form in the file. The passport obtained by the petitioner as Satnam Kaur was with the Passport Office. The petitioner, with a view to having a passport, was trying to obtain another passport on fictitious name of Jaswinder Kaur by attaching false and fraudulent documents.

4. The petitioner was arrested in the case and was granted regular bail by this Court vide order dated 12.08.2004. During trial the petitioner absented and was declared proclaimed offender vide order dated 13.01.2009.

5. The petitioner has filed the present petition on the averments that the petitioner got married to her first husband Surinder Singh Chauhan in the month of April, 1989 and two children, Liza Kaur-daughter and Amandeep Singh-son, were born out of the wedlock. Due to treatment of the petitioner with cruelty by her first husband, the petitioner separated from him. First husband of the petitioner got her name changed to Satnam Kaur which fact is also incorporated in the passport of her first husband and in the passport applied for by the petitioner her name was accordingly mentioned as

Satnam Kaur. The petitioner applied for passport by using the name Satnam Kaur given to her by her in-laws instead of her maiden name Parminder Kaur. The factum of change of her name was also recorded in the judgment dissolving her marriage by decree of divorce. Her first husband complained to the Passport Authorities that she has obtained passport by committing fraud regarding which FIR No.20 dated 19.01.2004 was registered under Sections 465, 467, 468 and 471 in Police Station Division No.4, Jalandhar against the petitioner. The petitioner was arrested in the case and was subsequently granted bail. Due to matrimonial discord between the petitioner and her first husband, present FIR No.155 dated 15.06.2004 was registered on similar allegations on complaint made by a close friend of her first husband. Due to threat and fear of implication in more cases by her first husband, the petitioner absented from the trial Court. Although she submitted medical record but her Counsel failed to produce the same before the Court and the petitioner was declared proclaimed person vide order dated 13.02.2009. Her petition CRM-M-35434-2011 challenging the order declaring her as proclaimed person was disposed of with directions to surrender within 15 days. Due to the responsibility of taking care of her children, the petitioner could not surrender before the trial Court. The petitioner filed petition CRM-M-28651-2013 for quashing of FIR which was subsequently dismissed as withdrawn vide order dated 09.09.2013. The petitioner solemnized second marriage with Colonel Balbir Singh on 01.10.2014, who is presently aged about 78 years. The petitioner could not comply with the directions given by

the Court as she was to support two young children and make both ends meet. Second husband of the petitioner guided her to join the proceedings on which the petitioner filed CRM-M-2794-2020 which was dismissed by this Court with direction to surrender before the trial Court within 7 days. The petitioner filed petition CRM-M-35467-2020 seeking grant of regular bail which was dismissed by this Court vide direction to the trial Court to conclude the trial within four months. The petitioner has been granted bail in FIR No.20 dated 19.01.2004 registered under Sections 406, 420, 465, 467, 468 and 471 of the IPC in Police Station Division No.4, Jalandhar vide order dated 10.02.2021 passed in CRM-M-35479-2020. As per the statement of the prosecution witnesses before the trial Court, no application for issuance of passport or other documents were handed over to the police. There is no record that there is any fee deposited with the Passport Authority for issuance of passport. The period of four months given for conclusion of trial has expired. No second FIR could be registered and there could not be any fresh investigation on subsequent information in respect of the same cognizable offence. Merely an application form was recovered from the co-accused standing in line as per FIR and nothing was recovered from the petitioner. Without deposit of fee for issuance of passport, the application was as good as piece of blank paper to be thrown in a dust bin. Allegations against the petitioner in the FIR are vague and baseless and do not constitute any offence. The petitioner is facing double jeopardy in facing trial in two FIRs wherein offence committed is one. Second FIR and second criminal proceedings can not be continued as

the same amount to abuse of process. The witnesses did not support the prosecution version and co-accused has been acquitted in case FIR No.155 dated 15.06.2004 registered under Sections 420, 465, 467 and 468 of the IPC at Police Station Division No.4, Jalandhar vide judgment dated 16.10.2012. The petitioner has accordingly prayed that the FIR may be quashed.

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

7. Learned Counsel for the petitioner has reiterated the factual averments made in the petition and argued that the petitioner has been falsely implicated in the present case at the instance of her first husband Surinder Singh Chauhan. No second FIR could be registered and there could not be any fresh investigation on subsequent information in respect of the same cognizable offence. Merely an application form was recovered from the co-accused standing in line as per FIR and nothing was recovered from the petitioner. The witnesses did not support the prosecution version and co-accused has been acquitted in case FIR No.155 dated 15.06.2004 registered under Sections 420, 465, 467 and 468 of the IPC at Police Station Division No.4, Jalandhar vide judgment dated 16.10.2012. Without deposit of fee for issuance of passport, the application was as good as piece of blank paper to be thrown in a dust bin. Allegations against the petitioner in the FIR are vague and baseless and do not constitute any offence. The petitioner is facing double jeopardy in facing trial in two FIRs wherein offence committed is one. Second FIR and criminal

proceedings on the same can not be continued as the same amount to abuse of process. Therefore, the present FIR and all consequential proceedings arising out of the same may be quashed. In support of his arguments learned Counsel for the petitioner has placed reliance on the observations in ***Amitbhai Anilchandra Shah Vs. The Central Bureau of Investigation JT : 2013 (4) SC 333; T.T. Antony Vs. State of Kerala and others : 2001 (6) SSC 181; Babubhai Vs. State of Gujarat and other : 2010 (12) SCC 254 and State of Haryana and others Vs. Bhajan Lal and others : 1991 (1) RCR (Criminal) 383.***

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

"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 orders of this Code or to prevent abuse of process of any Court or otherwise to secure the ends of justice".

9. 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)

10. In ***Rishipal Singh Vs. 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(2) R.C.R.(Criminal) 122 : 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, 1991(1) R.C.R.(Criminal) 383 : 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(3) R.C.R.(Criminal) 60 : 1996 (5) SCC 592; (2) Rajesh Bajaj v. State NCT of Delhi, 1999(2) R.C.R.(Criminal) 160 : 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(4) R.C.R.(Criminal) 662 : 2012(5) Recent Apex Judgments (R.A.J.) 127 : 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)

11. Accordingly, it is now well settled that High Court, in exercise of its inherent jurisdiction under Section 482 of the Cr.P.C. would not make any roving inquiry into the questions of fact and record any findings. High Court has only to scrutinize the FIR /complaint and

take the allegations/averments made in the complaint on their face value and quash the proceedings if the FIR/complaint does not disclose commission of any offence. 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.***

12. In the present case the petitioner has filed the present **second** petition for quashing of FIR. The petitioner had earlier filed petition for quashing of the present FIR which was dismissed as withdrawn vide order dated 09.09.2013. There is not only undue and unreasonable delay of seven and half years and laches on the part of the petitioner in filing of the present second petition for quashing of the present FIR but also no new ground entitling the petitioner to file the present second petition for quashing of the FIR is shown to exist. The petitioner misused the concession of bail and her misconduct during trial also disentitles her to grant of any discretionary relief. Further, in the present case, when 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 420, 465, 468, 471, 474 and 120-B of the IPC is made out against the petitioner. Charges against the petitioner have already been framed and the trial is going on. Mere acquittal of co-accused is no ground to quash the FIR and all consequential proceedings arising out of the same. The questions of guilt or innocence of the petitioner have to be decided on the basis of evidence to be produced during trial and this court cannot

go into and adjudicate upon these disputed questions of facts in the instant petition under section 482 of the Cr.P.C..

13. In these facts and circumstances of the case, observations in *Amitbhai Anilchandra Shah Vs. The Central Bureau of Investigation JT : 2013 (4) SC 333*; *T.T. Antony Vs. State of Kerala and others : 2001 (6) SSC 181*; *Babubhai Vs. State of Gujarat and other : 2010 (12) SCC 254* and *State of Haryana and others Vs. Bhajan Lal and others : 1991 (1) RCR (Criminal) 383* relied upon by learned Counsel for the petitioner are not applicable and are not of any help to the petitioner.

14. Consequently, the FIR, final report 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.

15. In view of the above, the petition, being devoid of any merit, is accordingly dismissed with no order as to costs.

25.08.2021

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(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No