

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.6315 of 2022
Date of Decision: 17-03-2022.

Lokesh Parashar

...Petitioner

Versus

Sate of Haryana

...Respondent

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Nipun Vashist, Advocate,
for the petitioner.

* * * *

MEENAKSHI I. MEHTA, J.

The petitioner, above-named, has preferred the instant petition under Section 482 Cr.P.C. to seek the quashing of the FIR bearing No.385 dated 05.07.2019 registered at Police Station Central Faridabad, District Faridabad, under Sections 323 & 506 IPC and Section 68 of the Excise Act.

Shorn and short of unnecessary details, the allegations, as levelled in the subject FIR, are that while complainant-informant SI Vijay and Constable Surjit were present in the afore-said Police Station to discharge their official duty, the petitioner came there in an inebriated condition. He was given the pen and paper to pen-down his complaint but he, instead of doing so, abused and also threatened to kill them.

Mr. Apoorv Garg, learned Deputy Advocate General, Haryana, has joined the proceedings in this case in pursuance of the copy of the present petition having been sent to the respondent-State in advance. He has

forwarded the copies of the zimni orders passed by the trial Court during the period from 04.11.2019 to 23.12.2021, through “WhatsApp Group for Video-Conferencing” and the same have been placed on the file.

I have heard learned counsel for the petitioner as well as learned State counsel in this petition at the preliminary stage and have also perused the file thoroughly.

Learned counsel for the petitioner has contended that from the allegations as levelled in the FIR, none of the offences, as invoked in the case, is made out against the petitioner and thus, he (petitioner) has been falsely implicated in this case and though, he moved the complaint Annexure P-3 (colly) to the Commissioner of Police concerned in this regard but the same has wrongly been filed and moreover, the petitioner could not be arrested for the alleged commission of the offence under Section 68 of the Excise Act in view of the provisions as contained in Section 47 of this Act and in these circumstances, the said FIR is liable to be quashed. To buttress his contentions, he has placed reliance upon the observations as made by the Single Bench of this Court in **Surinder Suri vs. State of Haryana & Others**, **1996(2) RCR (Criminal) 701**,

Per-contra, learned State counsel has argued that the Challan/Police Report under Section 173(2) Cr.P.C has already been presented against the petitioner but he has repeatedly been seeking adjournments in the trial Court for addressing the arguments on the point of framing of the charges and moreover, he (petitioner) went to the police station and threatened the complainant SI and the other police official present there and he also refused to give the requisite sample at the time of his

medical examination for the purpose of ascertaining the factum of the consumption of liquor by him as well as to append his signatures on the relevant papers in respect thereof and these circumstances reflect his conduct and keeping in view the same, this petition be dismissed.

Before advertng to the discussion on the merits of the present matter, it is worth-while to mention here that Section 482 Cr.P.C confers inherent power on this Court to pass appropriate orders as may be necessary to give effect to any order under the Code or to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. It is well settled that this power is to be exercised cautiously and sparingly only in the eventuality of the fulfilment of any of the afore-discussed pre-requisites as envisaged under the above-referred provisions. Such power, being extraordinary in nature, is to be invoked in the rare circumstances genuinely warranting the exercise thereof to serve the purposes as specifically provided in the said provisions.

Concededly, the petitioner had gone to the Police Station on the day of the alleged occurrence. He has specifically been alleged to have abused the complainant-SI and the afore-named Constable present there and to have threatened to kill them. A perusal of the copy of the application (annexed at Page 45 in the paper-book), moved by the police to the Medical Officer, BKH, Faridabad for conducting the medical examination of the petitioner for giving the opinion qua his (petitioner's) being under the influence of liquor, reveals that he (petitioner) refused to give the requisite sample for the said purpose and also to sign the said document. His above-alleged act and conduct speak volumes of his intent which attract culpability.

The police force has been inducted in the system to maintain the law and order and to bring the culprits to the book and in case, a person goes to the Police Station in an inebriated condition and dares to threaten the police officials present there for discharging their official duty, to kill them and if such a person claims and is allowed to go scot free, then it is high time to realise that the entire system is at the threshold of anarchy and we are wide opening the gates for the same.

The offence under Section 506 IPC has been made cognizable and non-bailable in the State of Haryana vide the requisite notification issued in exercise of the powers conferred under Section 10 (1) & (2) of the Criminal Law Amending Act, 1932 and its validity and legality have been upheld by the Division Bench of this Court vide the judgment rendered in **CRM-M No.26407 of 2012** titled as **Anuj & Another vs. State of Haryana & Another**. The observations, as made by this Court (SB) in **Surinder Suri (supra)**, are of no avail to the petitioner as the facts and circumstances of the afore-cited case are distinguishable from those of the present one. In the above-said case, the parties were already having strained relations and were litigating and therefore, it was observed that the Court, while considering the quashing of the FIR, had to see the mala-fides of the complainant and if the dominant purpose in filing the FIR is mala-fide, the same would have to be quashed and in this backdrop, it was held that the accused were not armed and therefore, it could not be said that the complainant felt intimidated whereas in the case in hand, there is nothing on the record to show that the complainant-informant and the petitioner were having strained relations since prior to the alleged occurrence and any litigation was pending between them.

Moreover, it has been held by Hon'ble the Supreme Court in **Megh Singh vs. State of Punjab 2003(4) RCR (Criminal) 319** that “*circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect. It is more pronounced in criminal cases where the backbone of adjudication is fact based.*”

The contention qua the police having no power to arrest any person accused of committing the offence under Section 68 of the Excise Act, also does not come to the rescue of the petitioner in view of the fact that besides the said offence, the offence under Section 506 IPC is also alleged to have been committed by him and as discussed earlier, this offence has been notified to be cognizable and non-bailable in the State of Haryana and the legality of said notification has been upheld by the Division Bench of this Court in **Anuj and Another (supra)**.

So far as the factum of complaint Annexure P-3 having been moved by the petitioner to the Police Commissioner against the police officials is concerned, a bare reading of this document shows that the same had been filed while observing that the allegations, as levelled by the complainant, i.e the petitioner, therein, were false and baseless. Even otherwise, mere factum of filing of the said complaint does not suffice at all to fulfil any of the above-discussed pre-requisites, so as to call for exercising the inherent power as contained in Section 482 Cr.P.C.

Before parting with the judgment, this Court cannot resist from

pointing out that from the perusal of the copies of the zimni orders passed by the trial Court during the period from 04.11.2019 to 23.12.2021, it becomes quite explicit that the petitioner and his counsel have been seeking adjournments to address the arguments on the point of framing of the charge in the case without advancing any cogent and plausible reason/justification for the same. This conduct on the part of the petitioner, rather, reflects his own intent to thwart the process of law as well as of the Court.

As a sequel to the fore-going discussion, it follows that the present petition is devoid of any merit and deserves dismissal. Resultantly, the same stands dismissed accordingly.

(MEENAKSHI I. MEHTA)
JUDGE

17th March, 2022.
seema

Whether speaking/reasoned?	Yes
Whether Reportable?	Yes