

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

**CRM-M-17135-2022 (O&M)
Date of decision: 28.04.2022**

Karn Singh Thakkar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Vivek Bhandari, Advocate for the petitioner.

HARNARESH SINGH GILL, J.

The petitioner has filed present petition under Section 482 Cr.P.C. for the quashing of FIR No.444 dated 12.12.2021, registered under Sections 342, 353, 186 and 506 IPC at Police Station Sohana, District SAS Nagar, and all subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the local Sarpanch and other people of the area, have been conniving with each other against the petitioner for some time past and in this regard, he had also filed various complaints to the Police of SAS Nagar; that on the complaints filed by the petitioner, FIR No. 177 dated 03.12.2014 at Police Station Phase-8, SAS Nagar, Mohali, and FIR No. 79 dated 26.4.2017 at Police Station Sohana, SAS Nagar, were registered whereas FIR No. 10 dated 08.01.2019 was registered at Police Station, Sohana, on the complaint filed by the petitioner's wife and that this clearly shows that the petitioner is being targeted on one or the other pretext. It is further submitted that in respect of the occurrence in question, the petitioner had immediately informed the police, but no action was taken, whereas the police has swiftly; arbitrarily and illegally acted in the complaint of Rahul Wadhwa, to register the present FIR.

It is yet further submitted that as a matter of fact on 11.12.2021, complainant-Rahul Wadhwa had made booking for 2 persons at Westonel Farm Stay, but he had forcefully entered the premises with 8 other men at around 10 P.M. and started overpowering the property Supervisor and the said incident is duly captured in the CCTV footage.

Learned counsel for the petitioner would further submit that the petitioner had called the PCR at around 11.30 p.m.; that the PCR had reached the spot, but failed to get the intruders out from the Westonel Farm Stay; that the petitioner had unsuccessfully called the SSP, Mohali; that by 2.30 a.m., the intruders were made to leave the property; that however, the Duty Police Officer, who had reached the place of occurrence, did not accept the written complaint of the petitioner; rather the police started calling the petitioner to the police station and that later on the petitioner came to know that the aforesaid FIR was registered against him. It is submitted that a totally false story has been concocted by the complainant that he and his fiancée, were not served food at Westonel Farm Stay, nor were allowed to go outside and that when the police was called by the complainant, the petitioner had misbehaved with the police personnel and issued threats and criminally intimidated them.

It is submitted that it is the case of the complainant himself that he had done booking at the Westonel Farm Stay, and thus, him having come to the said place willfully, no offence under Section 342 IPC is made out. Yet further it is submitted that upon a nuisance and offending situation being created by the complainant, it was the petitioner, who had called the PCR and when the Police Officials visited the place of occurrence, he had requested them to take action against the complainant and there was no overt-act on the part of the petitioner in deterring or obstructing a public servant from

discharging his duties and thus, the offences under Section 353 and 186 IPC are also not made out. Likewise, it is submitted, that the petitioner being alone as against the complainant and the police officials, it does not appeal to the common logic that the petitioner would issue any threat or criminal intimidation and accordingly, no offence under Section 506 IPC is made out.

While relying upon the judgment of the Hon'ble Supreme Court in State of Haryana Vs. Ch. Bhajan Lal, 1991(1) RCR 383, it is submitted that the even if the allegations contained in the FIR are taken on face value, no offence is made out against the petitioner.

After hearing learned counsel for the petitioner, I do not find any merit in the present petition.

It is the case of the petitioner that in the past, the police has registered in as many as three FIRs, as notice above, on the complaints submitted by the petitioner and his wife. If it is so, it does not appeal to the common prudence as to why the police would not act in the complaint filed by the petitioner regarding the occurrence in question. Be that it may, the fact remains that the charges have already been framed and the case is now at the stage of evidence. The petitioner's plea that the CCTV footage has captured the entire occurrence and, therefore, on the basis thereof, the FIR along with all subsequent proceedings must be quashed, cannot be considered in the present proceedings. It is open to the petitioner to lead evidence before the trial Court in support of his innocence, but this Court cannot assume the role of the Trial Court to pre-suppose the evidence and quash the criminal proceedings.

No doubt, this Court has inherent jurisdiction under Section 482 Cr.P.C, but the same must be used in exceptional circumstances, when on the

face of the records, documents and material on record, no offence is made out.

The Hon'ble Supreme Court in Pepsi Foods Ltd. and another Vs. Special Judicial Magistrate and others, (1998)5 SCC 749, while relying upon its previous decisions, including the one delivered in State of Haryana Vs. Ch. Bhajan Lal, 1991(1) RCR 383, while setting aside the order passed by the High Court held that if there is no substance in the allegations in the complaint, then the High Court would be well within its right to quash the proceedings. The observations made by the High Court that at the stage of taking cognizance by the Magistrate, it cannot be said that the allegations in the complaint are so absurd and inherently improbable on the basis of which no prudent man can ever reach a just conclusion that there exists no sufficient ground for proceedings against the accused, were set aside.

The case in hand, if examined at the touchstone of the law laid down by the Hon'ble Apex Court in Pepsi Foods Ltd's case (supra), does not fall in the category of the cases, wherein the inherent jurisdiction under Section 482 Cr.P.C. could be exercised.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

28.04.2022
Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No