

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

CRM-M-30493-2022

Date of decision : 18.07.2022

Kanwar Singh

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Anoop Kumar Yadav, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the FIR No.124 dated 10.04.2022, under Sections 354-B, 354-D, 452, 506 of IPC, registered at Police Station Sadar Mahendergarh, District Mahendergarh along with consequential proceedings arising therefrom on the basis of the merits of the case.

Admittedly, this is the second round of litigation by the petitioner. Earlier he approached for the same prayer by way of filing CRM-M-23448-2022. However, after arguing for some time, the same was withdrawn with liberty to avail his alternative remedies as available to the petitioner under the law vide order dated 31.05.2022. The petitioner has again approached this Court praying for the same relief.

As per the facts of the case, the complaint was lodged by the prosecutrix wherein it was alleged that she was 50 years of age. On 09.04.2022 when she was cleaning the house then Kanwar Singh i.e. the petitioner came inside the house and started molesting her. Despite her

repeated request, he kept forcing upon her and did obscene acts with her. On her raising noise, the family members got attracted, due to which the petitioner ran away from the spot by threatening the complainant and her family to be killed. On the basis of the complaint, the FIR was lodged and the investigation commenced. The statement of the prosecutrix was recorded by the learned Sessions Judge under Section 164 Cr.P.C. on 12.04.2022. The prosecutrix deposed that the accused had beaten her and he misbehaved with her.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that petitioner is a senior citizen. He submits that the petitioner has been implicated in this case in a clandestine manner. He submitted that respondent No.2-complainant had accepted that she got married with Jile Singh and hence, the petitioner has lodged FIR No.55 dated 04.03.2021, under Sections 429, 420, 467 of IPC against the complainant for fabricating the record for drawing widow pension. He has submitted that it is because of the same, the petitioner has been roped in the present FIR. He also submits that the petitioner has lodged FIR No.15 against son and brother-in-law of respondent No.2 under Sections 188, 34, 379 of IPC. He submits that on account of the FIR lodged by the petitioner against the complainant and her relatives, he has been booked in the present FIR. He submits that in view of the settled law by the Constitution Bench of State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335, the prosecution of the petitioner is nothing but an abuse of the process of the Court.

Heard.

I have heard counsel for the petitioner and perused the record. A perusal of the FIR would show that there are specific allegations leveled by the complainant against the petitioner. Though the complainant and the petitioner are elderly persons, however, the Court cannot draw any presumption of false implication of the petitioner on the basis of the same. The arguments raised by counsel for the petitioner for falsely implicating the petitioner due to the criminal case registered by the petitioner against the complainant and her relatives is also disputed question of facts which can be ascertained only on the basis of the evidence.

The Hon'ble the Supreme Court in Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others, 2021 SCC OnLine SC 315 has held that the High Court should exercise the power under Section 482 Cr.P.C. with great circumspection and sparingly.

The Hon'ble Supreme Court in State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335 has held as under:-

102. 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 channelized 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 FIR 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 FIR 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 FIR 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.*

Weighing the facts and circumstances of the present case on the anvil of the law settled, this Court is of the opinion that petitioner fails to make out any case for exercising the inherent jurisdiction of this Court. Resultantly, petition being devoid of any merits is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the cases.

18.07.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No