

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.128

CRM-M-31199-2022

Date of Decision:21.07.2022

Pardeep Kumar and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. C.S. Singhal, Advocate,
for the petitioners.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.255 dated 11.10.2021 under Sections 323/324/341/506 IPC registered at Police Station Mullana, District Ambala and all subsequent proceedings arising therefrom.

Learned counsel for the petitioners has submitted that the aforesaid FIR No.255 dated 11.10.2021 was false and frivolous and it was only a counter-blast to another FIR bearing No.253 dated 09.10.2021, which is just two days prior to the impugned FIR. The impugned FIR has been attached as Annexure P-1 and another FIR dated 09.10.2021 has been attached as Annexure P-2.

As per the allegations contained in the impugned FIR lodged on the basis of complaint made by one Chander Bhan to the effect that son of his uncle namely Ramesh, who works in Kala Amb, after finishing his work was coming back to home on his motorcycle on 08.10.2021 and at about 10.:15 PM when he reached on Sohna Ghelri Road near Saifion Ka Dera

then Pardeep Kumar son of Dhani Ram (petitioner No.1) and Babli Devi (petitioner No.2) blocked his way and gave beatings to his brother, who made a telephonic call to home and then complainant also went to the spot then Pardeep Kumar (petitioner No.1) gave knife blows on him and Babli Devi also gave fist blows to him and thereafter Pardeep Kumar (petitioner No.1) also attacked Ramesh. It has further been stated in the FIR that there was a dispute pertaining to land between them and due to that reason the same has been done.

Learned counsel for the petitioners has submitted that the impugned FIR was a counter-blast of earlier FIR, i.e. Annexure P-2. A perusal of the same would show that the FIR (Annexure P-2) was lodged on the basis of a complaint made by Pardeep Kumar (petitioner No.1) by alleging that he is suffering from arthritis disease and petitioner No.2-Babli Devi and her son Prince are his neighbours and on 05.10.2021 in the night, the accused Hemant son of Parsa Ram and Kanwarbhan son of Rameshwar tried to commit rape with her and therefore, the FIR (Annexure P-2) was lodged, although, it appears that the FIR is not under Section 376 IPC.

Learned counsel for the State has submitted that he received an advance copy of the petition and sought instructions. He submitted, on instructions from HC Sandeep, that in both the FIRs, the challans have already been presented after the investigation and charges are yet to be framed and also stated that both the FIRs are independent of each other and has, therefore, opposed the grant of quashing of FIR (Annexure P-1).

Heard.

At the outset, a perusal of both the FIRs would show that there does not seem to be any connection between these two FIRs. The only

connection highlighted by the learned counsel for the petitioners was that the complainant in the present FIR (Annexure P-1), i.e. Chanderbhan is the brother of the accused namely Kanwarbhan. Apart from the same, the entire subject matter is question of facts which can be seen only at the time of investigation by the police or at the time of trial by adducing evidence.

The law with regard to quashing of FIR is no longer *res integra*. The Hon'ble Supreme Court in the **State of Haryana and others Vs Chaudhary Bhajan Lal and others, 1992 SCC (Cr1.) 426** laid down guidelines/parameters with regard to quashing of the FIR. The relevant para thereof is reproduced 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.”*

In the facts and circumstances of the present case, both the FIRs do not appear to have any connection with each other and therefore, the argument raised by the learned counsel for the petitioner that the impugned FIR (Annexure P-1) was a counter blast of Annexure P-2 is not sustainable. Even if it is assumed that there is some connection between the two, then again it cannot become a ground itself for quashing of the FIR since it is a question of evidence, which is to be seen at the time of trial by adducing evidence.

The present case does not fall in any of the guidelines/parameters as laid down by the Hon'ble Supreme Court in **Chaudhary Bhajan Lal's case (supra)** for quashing of the FIR. Therefore, finding no merit in the present case, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

21.07.2022
mks

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO