

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49351-2021

Date of Decision: 06.01.2022

Rameshwar Sharma and others

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashok Bhardwaj, Advocate, for the petitioners.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed by five petitioners under Section 482 of the Code of Criminal Procedure for quashing of FIR No. 0318 dated 21.07.2020, under Sections 147, 149, 323, 452 and 506 IPC, registered at Police Station Kundli, District Sonapat and all other subsequent proceedings arising therefrom.

As per the FIR which has been attached alongwith the present petition as Annexure P-1, a complaint was given by respondent No.2 against petitioner No.1 (brother-in-law/Jeth), petitioner No.2 (brother-in-law/Jeth), petitioner No.3 (sister-in-law/Jethani), petitioner No.4 (sister-in-law/Nanad) and petitioner No.5 (sister-in-law/Nanad) by alleging that there are 4 brothers and 2 sisters in the family of her husband who have property dispute among them. On 18.07.2020 at about 1.40 P.M. when her husband was not at home, then abovementioned all the persons knocked at her door

and when she opened the door, then these persons forcibly entered her house and asked her to give Rs. 20,00,000/- in lieu of this house otherwise vacate the house whereby she said that her husband is not at home and let him come and they can talk with him. Thereafter these persons started abusing her, dragged her by holding her hair and gave her beatings by throwing her on floor and kicked her as well. Thereafter, these persons gave slaps, legs and fist blows and extended threats of eliminating her family and said that even police is afraid of them and cannot take action against them and rather the complainant and her husband will be implicated in some false cases and will not be allowed to be released from jail. Earlier also these persons have committed similar action.

The learned counsel for the petitioners has submitted that in the present case vide Annexure P-15, the challan has already been presented in the competent Court after completion of the investigation. The challenge to the FIR and the subsequent proceedings has been made on different grounds. Firstly, it has been submitted that the FIR was false and frivolous because the same was lodged due to property dispute and nothing had happened on the day of the occurrence. Secondly, a plea of alibi has been raised by the petitioners to contend that none of the petitioners were present on the spot because no occurrence had taken place and various affidavits have been filed in the present petition of different persons vide Annexures P-2 to P-11 to contend that the alleged incident never took place. Thirdly, the lodging of the FIR was a result of a personal enmity at the instance of the Sarpanch of the village and reference of the same has been made in para No.11 and 12 of the petition. Fourthly, the dispute between the petitioners

and the husband of the complainant was earlier pertaining to allotment of some chamber at SDM Court, Seelampur, Delhi and due to these differences, the present FIR has been lodged. The learned counsel further submitted that petitioner No.1 had earlier also filed a petition for grant of protection which was disposed of by this Court vide Annexure P-12 and he had also filed one petition seeking fair investigation of the aforesaid FIR and the notice was issued by this Court vide Annexure P-14 and the same is pending for 15.09.2022.

I have heard the learned counsel for the petitioners.

The present petition has been filed seeking to invoke inherent jurisdiction under Section 482 of the Code of Criminal Procedure for quashing of the FIR No. 0318 dated 21.07.2020, under Sections 147, 149, 323, 452 and 506 IPC, registered at Police Station Kundli, District Sonapat and all other subsequent proceedings arising therefrom. The pleas which have been taken by the learned counsel for the petitioners by alleging that the present FIR was false and frivolous and was due to some family dispute between the family members of the petitioners and the husband of the complainant is purely a disputed question of fact and the allegation of *mala fide* which is a question of fact cannot become a ground for quashing of the FIR at this stage. Another plea taken by the learned counsel for the petitioners that the petitioners were not present at the time of the alleged occurrence is also a question of fact and can be established at the time of trial and, therefore, cannot become a ground for quashing of the FIR. The affidavits filed by various persons would also be a matter of evidence before the trial Court and cannot become a ground for invoking inherent

jurisdiction of this Court for quashing of the FIR. Further arguments raised by the learned counsel for the petitioners that the present FIR was an outcome of personal enmity as stated in para No.11 and 12 of the petition is also not a ground for quashing of the FIR as the same is again a matter of evidence which can be looked at into at the time of trial.

Petitioner No.1 had earlier filed a petition for grant of protection of life and liberty which was disposed of vide Annexure P-12. A perusal of the order passed by a Division Bench of this Court vide Annexure P-12 would show that petitioner No.1 had written two different letters to both the Hon'ble Judges and the Division Bench of this Court had taken a serious view regarding the same but since petitioner No.1 had tendered unconditional apology no action was taken against the petitioners in this regard.

The law with regard to the quashing of the FIR is well settled. The Hon'ble Supreme Court in ***State of Haryana and others Versus Ch. Bhajan Lal and others [1992 Supp (1) SCC 335]*** laid down parameters for quashing of the FIR. The relevant portion is reproduced 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 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.”

In the present case, the parameters for quashing of the FIR as laid down by the Hon'ble Supreme Court in ***State of Haryana and others Versus Ch. Bhajan Lal and others (Supra)*** are not fulfilled. No ground has been made out by the petitioners for falling into any of the aforesaid parameters.

In view of the above, this Court is of the considered opinion that no ground is available with the petitioners for seeking to invoke inherent jurisdiction under Section 482 of the Code of Criminal Procedure for quashing of the FIR and its subsequent proceedings.

Therefore, finding no merit in the present petition, 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.

06.01.2022

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No