

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

CRM-M-631-2022

Reserved on: 28.03.2023

Date of Pronouncement:- 18.04.2023

Parwinder Singh Main & another ...Petitioners

vs.

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vaibhav Singhal, Advocate for the petitioner

Mr. V.K. Gupta, A.A.G. Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Section 482 of Code of Criminal Procedure, 1973, petitioners have prayed for quashing of FIR No. 169 dated 08.09.2020 under Section 283 & 427 of IPC, registered at Police Station Sarabha Nagar and all proceedings arising therefrom.

Brief facts of the case as coming forth from the case file are that impugned FIR No. 169 dated 08.09.2020 was registered on the basis of a complaint received from the residents of Mohalla Pink Avenue that in the residential area commercial work (car workshop) is being done, due to which the local residents are facing difficulties and further stated that based upon the said complaint, Notice as per rules was issued by the Municipal Council Ludhiana to German Motors (car workshop) but work was not stopped by them. Though, Municipal Corporation sealed the gate of the workshop but the owner of the workshop started running the same by opening the sealed Gate from one side. On the basis of this complaint, after conducting a preliminary

enquiry, FIR No. 169 dated 08.09.2020 under Section 283 & 427 of

IPC, was registered at Police Station Sarabha Nagar, against the petitioners.

Learned counsel for the petitioners submits that the impugned FIR has been registered on account of multiple litigations going on with the landlord. Explaining the brief background of the case, learned counsel submits that petitioners are running the said business since the year 2000 under the name and style of M/s New German Motors on a rented premises .He further submits that present FIR has been registered by officials of Municipal Corporation, Ludhiana in connivance with the landlord of the petitioners, for the purpose of harassment.

On merits, learned counsel for the petitioners submits that even if contents of FIR are taken on its face value no offence is made out under the relevant sections. He further submits that offence u/s 283 IPC as well as 427 IPC are not made out at all from the bare perusal of the FIR as the same in no manner show that the petitioners have caused any danger, obstruction injury to any person in any public way or public line of navigation and the perusal of the FIR also does not even show that any mischief has been committed. He also submits that matter is purely of civil nature and is a landlord/tenant dispute and registration of FIR in present case is abuse of process of the Court.

On the other hand, learned State counsel submits that during the preliminary investigation it was found that the sealed Gate of the said workshop was got opened from one side and again business was started on account of which hindrance had been created in the movement of people and traffic and by doing so operators of the Workshop committed an offence u/s 283, 427 IPC and accordingly the

above said FIR was registered. He further submits that after completion of the investigation, Challan/Final Report u/s 173 Cr.P.C. has been presented against the petitioners before the Ld. Trial Court on 11.02.2021 and Charges have also been framed on 11.02.2021 u/s 283, 427 IPC and now the case is pending in the Court of Ld. JMIC, Ludhiana and therefore, petitioners are not entitled to any relief as prayed for as Trial Court is seized of the matter.

I have heard learned counsel for both the parties and gone through the paper book of the case. I find substance in the arguments raised by the learned counsel for the petitioners that from the contents of the FIR the relevant offences are not made out and it would be appropriate to examine each offence as defined in the IPC vis a vis content of the FIR.

Section 283 of IPC is defined as below:

“283. Danger or obstruction in public way of line of navigation: Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.”

There is no specific averment to the effect that any danger obstruction or injury has been caused to any person, nor it is coming forth that any public way or public line of navigation has been obstructed by the petitioners in any way. It is difficult to perceive how by opening his shop in a residential area, petitioner has committed the offense under this section.

Similarly, Section 427 of IPC is defined as below:

“427. Mischief causing damage to the amount of fifty rupees.—Whoever commits mischief and thereby causes loss

or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

Again, with respect to offense under section 427 as well, there is no averment that what mischief has been committed by the petitioner or to whom loss or damage has been caused through that mischief.

Mere vague allegations in the FIR, consisting of words used in the definition of an offense, in the absence of any corroborating details, does not lead to prima facie satisfaction for constituting that offence.

Therefore, considering the parameters laid down by Hon'ble Supreme Court in “**State of Haryana and others vs. Ch.Bhajan Lal and others**”, reported as 1991 (1) R.C.R. (Criminal) 383, in my considered opinion, present petition satisfies the criteria specified u/s 482 of Cr.P.C., i.e. to meet the ends of justice and also to prevent the abuse of the process of Court, to invoke its powers for quashing of the FIR as present case is duly covered under the following specified conditions in **Ch.Bhajan Lal's** case (supra), which are reproduced hereunder:-

- “a) *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;....*
- (e) *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;.....”*

In view of the discussion held above present petition is allowed and FIR No. 169 dated 08.09.2020 is quashed and as a consequence thereof all proceedings arising out of this are also quashed.

Pending miscellaneous application(s), if any, shall also stand disposed of.

18.04.2023
anil

(HARKESH MANUJA)
JUDGE

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