

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-1672-2023
Reserved on: 24.07.2023
Pronounced on: 24.08.2023

Sukhbir Singh BadalPetitioner

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. A.S. Cheema, Advocate
Mr. D.S. Sobti, Advocate and
Mr. Satish Sharma, Advocate
for the petitioner.

Mr. Gaurav Garg Dhuriwala, Addl. AG, Punjab.

Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate
Ms. Malini Singh, Advocate and
Mr. Rishabh Singla, Advocate
for respondent No.2.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
172	01.07.2021	Beas, District Amritsar Rural	269, 270, 188, 341, 506 IPC 1860 and Section 3 of Epidemic Diseases Act, 1897

Aggrieved by the registration of FIR captioned above, the accused has come up before this Court under Section 482 CrPC for its quashing on the grounds that it is politically motivated, and even if all the allegations are taken as truth, still no case is made out for to launch prosecution and despite that the State went on to prosecute him for ulterior motives.

2. The prosecution’s case is that the second respondent-M/s Friends and Company, had got an allotment/contract of mining Block No.5 comprising some mining sites in districts of Kapurthala, Tarn Taran, and Jalandhar by way of e-auction in July 2019. Mining was to desilt without causing loss to the environment and to be carried out strictly as per the rules, in the area commonly known as Wazir Bhullar. As per the State,

the allotment was specifically for desilting in the said area.

3 On June 30, 2021, M/s Friends and Company made a complaint to the Senior Superintendent of Police, Amritsar (Rural), alleging that the petitioner and other co-accused, namely Virsa Singh Valtoha, Amarpal Singh Bony Ajnala and other members of Shiromani Akali Dal, had threatened their staff and employees; obstructed and interfered in their legal mining operations and desilting sites in Village Wazir Bhullar, District Amritsar. The complainant mentioned the grant of the contract, which is irrelevant because it is not a matter of dispute. Based on the complaint, the police registered FIR, as captioned above.

4. A perusal of the FIR reveals that the complainant had alleged that on 30.06.2021, Shri Sukhbir Singh Badal, President of Shiromani Akali Dal, had threatened the employees and obstructed to gain cheap publicity for the assembly elections, which were scheduled at that time in the State of Punjab. Due to intimidation, the company employees ran away from the spot to save their lives. The accused persons also misled the local people by declaring that the mining undertaken by the complainant (second respondent) was illegal, and thus, they also tarnished the image of their company. They squarely blamed the petitioner as the person at whose behest the said attempt was made to stop the legal mining operations. After registration of the FIR, the police started an investigation and recorded statements of Preet Singh, who stated that he was working as a cashier in the company, and stated that the petitioner-Shri Sukhbir Singh Badal (President of Shiromani Akali Dal), along with Virsa Singh Valtoha, Amarpal Singh Bony Ajnala along with around 200 supporters had reached the mining place and stopped the mining trucks of their company by saying that mining activities are illegal. They also raised a commotion, and despite being clarified by the company's employees that the mining was being conducted based on a contract given by the government, they did not stop and created a nuisance and ruckus.

5. The statement of the complainant's witnesses namely Amarjeet Singh, Jagpreet Singh, Mahaveer Singh, and Prabhjot Singh were also recorded, which, apart from reiterating the relevant facts, also added another factor that the petitioner and his supporters were not wearing masks.

6. To verify whether the mining operation was legal, the investigator recorded the statement of the concerned Patwari, SDO, and Executive Engineers. After the conclusion of the investigation, the State launched prosecution against thirteen persons out of the alleged crowd of around two-hundred persons.

7. Aggrieved by the launching of the prosecution, the petitioner had come up before this Court by filing the present petition for quashing the FIR and the police report (Challan).

8. The state has filed a detailed response to the petition, in which their specific stand is that the mining conducted by the second respondent was without any violations and as per the terms of the license.

9. The senior counsel appearing for the petitioner argued that the petitioner is a mainstream political leader of National repute, and was the Deputy Chief Minister of the State of Punjab, and now, President of Shiromani Akali Dal, which is the main opposition party, and is currently, Member of Parliament from Ferozepur. He submitted that on hearing complaints of a large number of people against the second respondent that the company was charging exorbitant rates for the purchase of sand and also that mining was not being taken out in a scientific manner, which resulted in collaring of the area of the river and has caused devastation to people's life and has potential to cause massive damage to environment as well as the public infrastructure of an unimaginable scale, he was under obligation to visit the site and observe the situation with the ground realities. He further submits that regarding wearing of a mask, there is no evidence that the petitioner, at that time, was not wearing a mask, and even otherwise, in an open area near the riverbed, which is very far from the crowd, non-wearing mask, is inconsequential. Furthermore, there is no evidence that the petitioner was Covid positive.

10. The Senior counsel appearing for respondent No.2 submits that even if one offence is made out which has been arraigned in the FIR, this Court cannot quash the entire FIR or in the worst case scenario that particular section, which would make it natural for the FIR to continue. He further submits that it is proved that the petitioner, by visiting the said spot, had obstructed, and restrained the employees, and he was not wearing a mask, and offences are made out on the face of it.

11. The Addl. AG, Punjab, states that the prosecution has been launched because *prima facie* there is sufficient evidence against the petitioner and all other accused, and this Court, under Section 482 CrPC, should not quash the FIR because the evidence collected by the investigator is *prima facie* sufficient and convincing and seeks dismissal of the petition.

DISCUSSIONS AND REASONING:

12. The petitioner is a well-known political personality in the State of Punjab, and as

stated in paragraph 3(iv) of the petition, when he was campaigning for elections, the local people apprised him about the illegal mining in the Wazir Bhullar area. To verify this information, he visited the mining site on 30.06.2021, and noticed the deployment of heavy machinery, including suction machines, which were banned by the State Government and violated various Court orders. When the people involved in illegal mining saw the petitioner approaching the illegal mining site, the employees and workers fled away. Subsequently, a complaint (Annexure P-6) was made to the SHO, Police Station Beas, on 30.06.2021 regarding illegal mining. Referring to the complaint (Annexure P-6), the petitioner alleges that the illegal mining was done at the behest of senior politicians. In paragraph 3(v) of the petition, the petitioner explicitly says that despite such tell-tale evidence of illegal mining, instead of taking action against them, FIR was registered against him, in a *mala fide* exercise of power and abuse of process of law.

13. As referred to above, the complaint, based on which the FIR was registered, refers to the petitioner trying to obstruct the mining activities legally allotted to the complainant firm. The FIR (Annexure P-1), sought to be quashed, is registered under Sections 269, 270, 188, 341, 506 IPC, and Section 3 of the Epidemic Diseases Act, 1897.

14. Section 269 of IPC refers to any negligent act likely to spread infection or disease dangerous to life. Section 270 IPC also talks of any malignant act likely to spread infection or disease dangerous to life. Similarly, Section 3 of the Epidemic Diseases Act, 1897, has been invoked because when the petitioner had gone to inspect the illegal mining site, he was allegedly not wearing any mask and was accompanied by many people in violation of the promulgations. Even otherwise, he was not supposed to be present there, along with so many people, which could have endangered the further spread of the pandemic (COVID-19). It remains undisputed that the place where the petitioner had gone on hearing the complaints of illegal mining was a riverbed, which was not at all habited, and the workers had fled away on noticing the presence of the petitioner. Thus, there was no occasion at any time for the employees of the complainant to have any infection, even if the petitioner is hypothetically taken as infected with COVID-19. Further, there is no evidence that at any point in time, on 30.06.2021, the petitioner was having any symptoms of COVID-19 infection. Apart from the above, there is no other evidence collected by the investigator against the petitioner, which may call for violation of Sections 269, 270, 188, 341, 506 IPC, and Section 3 of the Epidemic Diseases Act, 1897.

15. Section 188 IPC is disobedience to orders duly promulgated by public servants.

place during the COVID-19 pandemic under the Disaster Management Act of 2006. The prosecution has not gathered any evidence of what disobedience the petitioner caused in this regard. Thus, in the given facts and the evidence collected, no offence under Section 188 IPC is made against the petitioner, and the argument raised on behalf of the petitioner that it is a misuse of the process of law cannot be taken as incorrect. Thus, this Court is not even considering the point of absence of sanction required under section 195 of Code of Criminal Procedure, 1973 [CrPC].

16. Section 341 IPC makes wrongful restraint a punishable offence. A reference to the complaint clearly states that on noticing the presence of the petitioner on the spot, the workers of the complainant firm had voluntarily fled away. Thus, there was no occasion for the petitioner to cause their wrongful restraint.

17. There is no allegation that the petitioner had gone to the spot to intimidate or do any physical harm to the workers and employees of the second respondent. It is not the prosecution's case that the petitioner had any ulterior motive. Instead, the petitioner claims that he visited the spot to check the ground reality about the allegations of illicit mining in an environmentally susceptible riverbed area, on receiving significant complaints being the people's representative, watcher, and mouthpiece. There is no evidence about stopping sand-laden vehicles or the vehicles going to ferry the sand. Thus, no case is made out for commission of any offence to launch the prosecution under Section 341 IPC.

18. Section 506 IPC makes criminal intimidation an offence. But no threat whatsoever was made by the petitioner to anybody. The petitioner's conduct at the spot does not point out any criminal intimidation. The petitioner claims that his objective was to check and find out the ground reality of various complaints received by him. By no stretch of the imagination, it would make out an offence under Section 506 IPC. Thus, the invocation of Section 506 IPC is nothing but an abuse of the process of law.

19. In a democratic country, if a well-established political person, on hearing serious complaints regarding any public issue, decides to verify the same by visiting the spot itself, it cannot be said that he intended to violate any promulgation issued by any government under Section 3 of the Epidemic Diseases Act, 1897 or Disaster Management Act, 2006.

20. A joint reference to all the sections does not make out any case to prosecute the petitioner. Instead, there is a force in the petitioner's stand that the case against him is bereft of substance.

21. Mr. R.S. Cheema, learned Senior Advocate, appearing for the petitioner, has argued several other points, but on analysis of the allegations leveled against the petitioner and the penal provisions relating to it, do not make out any case against the petitioner and thus, this Court is not adjudicating on the remaining arguments.

22. Given above, in the peculiar facts and circumstances, it is a fit case where the continuation of criminal proceedings shall amount to an abuse of the process of law, and the Court invokes its inherent jurisdiction under section 482 CrPC and quashes the FIR and all subsequent proceedings.

Petition allowed. All pending applications stand closed in tune with this judgment.

(ANOOP CHITKARA)
JUDGE

August 24, 2023
anju rani/AK

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