

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

CRM-M-4710-2019 (O&M)

Date of Decision:28.07.2023

Ram Avtar Singla

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Jamshed Ahmed, Advocate
 for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Punjab.

N.S.Shekhawat J.

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of an FIR No. 192 dated 12.06.2018 under Sections 186 and 506 of IPC registered at Police Station Jhirka, District Nuh (Mewat) (Annexure P-1) alongwith all the consequential proceedings arising therefrom.

2. As per the case of the prosecution, the FIR in the present case was got registered by Attar Singh, ASI. As per the complainant, at about 07:30 AM on 31.10.2017, he received a phone call on his official mobile phone from one mobile no. 7015531897 and the caller asked him as to who he was. He replied that he was Incharge of the Police Post . The caller from the opposite side stated that he was Ram Avtar Singla and what evidence has been collected in the present case. The complainant replied that he had brought the record from Naveen, stamp paper vendor, Nageena and had inquired from him about the dates, on which Ram Avtar Singla had purchased the stamps from him. On this, Ram Avtar Singla said that stamp would be purchased by anyone. As per the

complainant, he had collected the information from several persons. The caller asked him as to whether he had gone to Mohd. Ali and the complainant replied that he had gone to him and had enquired orally and the record was yet to be taken from him. On this, Ram Avtar Singla stated that the complainant was favouring the complainant in the said criminal case. The complainant replied that he had to collect the evidence in the case. On this Ram Avtar Singla, said that he would get the enquiry conducted against him and would also make a complaint to the SP and he threatened to see him. As per the complainant, Ram Avtar Singla, had obstructed in discharge of the official duties by interfering in the investigation and he had identified the voice of Ram Avtar Singla properly, who had earlier also made phone calls to him and pressurized him. The complainant further stated that he had informed the higher officers in this regard and that person might lodge a false complaint against the official complainant and can also cause harm to him. With these broad allegations, the FIR was got registered by the complainant.

3. Learned counsel for the petitioner contends that the petitioner is a respectable person of the society and had also remained as Member of the District Grievances Redressal Committee several times. Even as per the complainant himself, he had received a phone call from the present petitioner on 31.10.2017. Since no cognizable offence was made out on the basis of the phone call made by the petitioner, only DDR No.14 dated 31.10.2017 was got registered by Attar Singh, ASI, complainant. In the present case, the complainant himself was a police official and since no cognizable offence was committed, he never got the FIR registered against the present petitioner.

Learned counsel further contends that in fact the hearing in a case arising out of

FIR No.434 dated 21.10.2017 under Sections 419, 420, 467, 468, 471 and 120-B of IPC, Police Station Firozpur Zhirka was fixed before this Court on 22.05.2018. Vide the order Annexure P-2 dated 22.05.2018, this Court had directed the learned State counsel to file a status report with regard to DDR No.14 dated 31.10.2017 by the next date of hearing and the matter was adjourned to 10.07.2018. In the interregnum, the DDR No.14 dated 31.10.2017 was converted into a FIR on 12.06.2018 and a criminal case under Section 186, 506 IPC was ordered to be registered against the present petitioner. Learned counsel for the petitioner contends that the ingredients of the offence under Section 186/506 of IPC are completely missing in the instant case. Consequently, when the allegations made in the FIR do not constitute a cognizable offence, the FIR and all subsequent proceedings are liable to be quashed by this Court by exercising the inherent powers under Section 482 Cr. PC. Still further, in the present case, criminal proceedings are manifestly attended with mala fide and have been maliciously instituted with an ulterior motive for wreaking vengeance on the accused, consequently, the FIR is liable to be quashed under Section 482 Cr.PC to prevent the abuse of the process of the Court.

4. On the other hand, learned State counsel submits that the present petitioner had threatened the Investigating Officer of a case FIR No.434/2017 and had caused obstruction in discharge of the official duties by him. Even, the DDR was registered immediately on the same day and later on, the same was converted into FIR by the police. Thus, the present petition deserves to be dismissed by this Court.

5. I have heard learned counsel for the parties and with their able

assistance; I have perused the record carefully.

6. The FIR in the present case has been registered under Sections 186 and 506 IPC. Section 503 IPC defines criminal intimidation and Section 506 IPC provides for punishment for criminal intimidation.

7. Section 503 IPC has been reproduced below for ready reference:-

503. Criminal intimidation.

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Similarly, Section 186 IPC provides for obstructing public servant, while he is discharging the public functions.

Section 186 IPC has been reproduced below:-

186. Obstructing public servant in discharge of public functions:-

Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend of five hundred rupees, or with both.

8. First of all, it is apparent from the record that as per the admitted case of the complainant, a telephonic call was made by the petitioner on 31.10.2017 and only a DDR No.14 was registered in this regard. Later on, on

12.06.2018, the said DDR was converted into a FIR under Section 186 and 506 of IPC. In the present case, the complainant was himself a police officer and was a investigator of a case. He was well aware of the fact that from the contents of the DDR, no cognizable offence was made out. However, vide the order dated 22.05.2018, while discussing the legality of the proceedings arising out of FIR No.434/2017, this Court directed the State counsel to file a status report with regard to the DDR No.14 dated 31.10.2017 by the next date of hearing and the matter was posted for 10.07.2018. Before the said case, could be taken up by this Court, the DDR No.14 dated 31.10.2017 was converted into a FIR Annexure P-1 on 12.06.2018. Thus, it is apparent that the FIR has been registered in the present case after a delay of more than seven months. If the information lodged by the complainant disclosed the commission of a cognizable offence, nothing prevented the police from registration of the FIR on 31.10.2017 itself.

9. While considering the question of quashing of the FIR, the Court has to see the mala fides of the complainant, if there be any. If the dominant purpose in filing the FIR is malafide, the FIR has to be quashed by this Court. Under Article 226 of the Constitution of India, an extraordinary jurisdiction has been conferred on the High Court to issue appropriate writ, order or direction as may be necessary in the administration of justice. This is a very wide discretionary power. Similarly, under Section 482 Cr. PC, the High Court is vested with inherent jurisdiction to quash the proceedings to prevent the misuse of the law. This Court has carefully gone through the provisions of Section 503 IPC and the allegations levelled by the complainant in the present FIR do not satisfy the ingredients of Section 503 IPC. The gist of the offence is the effect

which the threat is intended to have upon the mind of the person threatened. The threat must be one which can be put into execution by the person threatening. A threat, in order to be indictable must be made with an intent to cause alarm to the complainant. For instance, mere vague allegations by the accused that he is going to take revenge by making false complaint or that he is going to make a complaint to the higher police officers against the complainant, cannot amount to criminal intimidation. In the present case, it is completely doubtful as to whether the ingredients of the offence under Section 503 IPC would be fulfilled or not, keeping in view the peculiar facts and circumstances of the present case. As a consequence, the High Court should invoke its inherent jurisdiction under Section 482 Cr. PC in a very rare and exceptional case for quashing the prosecution. This Court is equally alive to the proposition of law that the criminal prosecution should be quashed in exercise of these powers by this Court, if the intention of the complainant is malicious and as to wreck vengeance on the accused and to spite him due to private and personal grudge and is not to vindicate the law for the good of the society.

10. Similarly, this Court has also examined the ingredients of the offence under Section 186 IPC, which provides for obstructing the public servant in discharge of public functions. In the present case, admittedly, the complainant had made a telephonic call to the complainant and had enquired about the progress of investigation of a criminal case. As per the complainant, when the accused was not satisfied with the words of the complainant, he threatened to move a complaint to the concerned SP of the District and to take action against him. Making a simple call by the accused could never be considered as an obstruction in discharge of public functions of a public servant

and the ingredients of the offence under Section 186 IPC are completely missing in the present case.

11. For the reasons recorded above, the present petition succeeds and the FIR No. 192 dated 12.06.2018 under Sections 186 and 506 of IPC registered at Police Station Jhirka, District Nuh (Mewat) (Annexure P-1), alongwith all consequential proceedings arising therefrom are hereby quashed qua the petitioners, is being misuse of the process of law.

12. All other pending applications if any, are also disposed off, accordingly.

28.07.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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