

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

CRM-M-9311-2023

Date of Decision: 30.05.2023

Seema Rani

..... Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Nonish Kumar, Advocate, for the petitioner.

Mr. B.S. Virk, Sr. Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of FIR No.275 dated 20.10.2021, registered under Sections 323, 324 and 506 IPC and Sections 325, 342 and 365 IPC added lateron, at Police Station Nigdhu, District Karnal alongwith all subsequent proceedings arising therefrom including final report under Section 173 Cr.P.C. dated 21.02.2022.

As per facts of the case, the impugned FIR was registered on the statement of Abhishek son of Jai Bhagwan, wherein it was alleged that the complainant and the accused were from the same family and the accused side had grudge against the complainant. It had been alleged that they had beaten the complainant by trespassing into his *bara* and broken his leg. For this, an FIR was already pending against the accused at the behest of the complainant. Now in order to compromise the same, they threatened the complainant. Panchayat was also convened and penalty of Rs.2,00,000/- was imposed by the Panchayat on the accused and hence, the accused were nurturing a grudge against the complainant. On 1.10.2021 at about 4:00 P.M., when they were doing their daily routine work, Rajinder, Prince, Sunil and Seema (petitioner) entered into their *bara* and challenged them. On

saying so, they started beating the complainant with fist and kick blows. Thereafter, all connived with each other and dragged the complainant to their house and given him beatings. False allegations of outraging modesty of the ladies of their family were leveled against him. His teeth were broken and eyes were damaged. Request was made to take legal action against the accused by initiating a case against them under Section 182 Cr.P.C. for filing false case against the complainant and other for breaking his teeth and intention to kill him. On registration of the FIR, the investigation commenced. On the conclusion of investigation, report under Section 173 Cr.P.C. has been filed before the Court of competent Court.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He submits that the petitioner is pursuing her Ph.D. and she has been roped in the present case in a premeditated manner. It is submitted that both the sides belong to same family and it is on account of the partition of ancestral property that the dispute has arisen between both the sides. It is submitted that it is the complainant side, which on the date of the occurrence trespassed in their house and started outraging modesty of the female members of the family. He submits that on account of the same, FIR No.271 dated 16.10.2021 has been registered under Sections 323, 452, 506, 354-A IPC, at Police Station Nighdu against respondent No.2-complainant. He submits that though the investigation is complete, however, there is no specific material collected during the investigation for substantiating allegations against the petitioner. He submits that the present FIR is nothing but a counter blast to FIR No.271 registered against respondent No.2-complainant and thus, prosecution of the petitioner is nothing but an abuse

of the process of the Court. He relies upon the judgment rendered by the Full Bench of this Court in case of Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052. He submits that in view of the same, prosecution of the petitioner is nothing but an abuse of the process of the Court.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that there are specific allegations against the petitioner. He submits that after registration of the FIR, a free and fair investigation was conducted and the allegations against the petitioner were substantiated during investigation and thus, challan has been filed under Section 173 Cr.P.C. He submits that no case for quashing of FIR is made out against the petitioner and thus, the same deserves to be dismissed.

Heard.

Evidently, the present FIR has been lodged on the statement of Abhishek. From the bare reading of the allegations made in the FIR, it is apparent that both the parties are at loggerheads. At the behest of the petitioner side FIR No.271 has been registered against the complainant-respondent No.2. Both the sides are facing prosecution at the behest of each other. *Prima facie* the motive is with both the parties, however, the Court cannot ignore the fact that the allegations and the counter-allegations are totally disputed question of facts, which can be decided only by the trial Court by way of appreciation of evidence to be led by both the parties before it. Report under Section 173 Cr.P.C. has already been filed, thus, it further approves that allegations made in the FIR were substantiated during the investigation.

Hon'ble Supreme Court in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335 has held that the High Court has inherent power under Section 482 Cr.P.C. for quashing the FIR, however, the same should not be exercised for the offence falling under the heinous categories. It has been further observed in Bhajan Lal's (supra) 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 channelized 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 FIR 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 FIR 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 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.
- (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.”

Hon'ble Supreme Court in **Gian Singh vs. State of Punjab and another**, (2012) 10 SCC 303, has further held as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal

proceeding or complaint or F.I.R may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and

compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Recently, Hon'ble the Supreme Court in the case of Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and another, 2021 SCC Online SC 315 has held that the High Court should exercise the power of quashing under Section 482 Cr.P.C. sparingly with circumspection in the rarest of rare cases and also criminal proceedings ought not to be scuttled at the initial stage.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court finds that case in hand fails to qualify for invoking the inherent jurisdiction. Resultantly, the present petition being devoid of any merit is hereby dismissed.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

30.05.2023		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned	: Yes/No
	Whether Reportable	: Yes/No