

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

256(1)

CRM-M-12609-2021 (O&M)
Date of decision: 25.01.2023

SHEEKHA RANI AND OTHERS
Versus

....Petitioner(s)

STATE OF HARYANA AND OTHERS

...Respondent(s)

CRM-M-27616-2022 (O&M)

NEHA JAIN
Versus

....Petitioner(s)

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. S.K. Dhanda, Advocate
for the petitioners in CRM-M-12609-2021
Mr. Gaurav Jain, Advocate
for the petitioner in CRM-M-27616-2022
Ms. Aditi Girdhar, AAG Haryana

AMAN CHAUDHARY. J.

This common order shall dispose of the above mentioned two criminal miscellaneous petitions arising out of the same FIR.

Present petitions have been filed under Section 482 CrPC for quashing of FIR No.106 dated 27.03.2015 under Sections 114, 143, 147, 149, 283, 341 of IPC registered at police station Safidon, District Jind and all other

consequential proceedings arising therefrom qua the petitioners.

Briefly put the facts of the case as emerge from the FIR are that on 27.03.2015, ASI Jai Bhagwan alongwith HC Mahinder Singh, CHC Rajesh at about 12 PM, when on patrolling duty reached near Hansi Branch bridge at Safidon, saw that there was a long queue of vehicles and the traffic was jammed on the main road. The persons whose names came to be later known as Yoginder Lamba, Sandeep Dhillon and Pradeep Lecturer, were instigating 25/30 ladies and gents, who were sitting in the middle of the bridge of the both side of the road. On asking for the reason, they replied that they were working as extension lecturers in government high schools, Safidon and protesting for getting their services regularized. The FIR in question was registered against Yoginder Lamba, Sandeep Dhillon and Pardeep and other 25/30 persons for obstructing the ingress or egress of the public by creating traffic jam.

Learned counsel has submitted that there was a peaceful agitation by the petitioners and no injury or harm was caused to anyone. There was no unlawful assembly, as they had gathered for a peaceful protest which was within the right of freedom of speech provided by Article 19 of the Constitution of India, but the police has falsely implicated them, including those who were not even present at the spot. The only allegation in the FIR is that the petitioners have caused a traffic jam. No ingredients of the offences under which the FIR has been registered are made out.

Learned counsel for the petitioners relies on the judgment in the case of **Shallu and others vs. State of Haryana and others**, CRM-M-29737-2015, decided on 12.03.2020, Annexure P-4 passed by this Court, whereby the FIR in

question with regard to the same occurrence has already been quashed qua the petitioners therein, who were similarly situated to the petitioners.

Reply dated 28.03.2022 by way of affidavit of Ashish Kumar, Deputy Superintendent of Police, Safidon, District Jind had been filed. It is stated therein that as per the investigation carried out by the SIT and evidence collected so far, it is clear that the accused persons/Extension Lecturers blocked the road on 27.03.2015.

Learned State counsel has fairly submitted that the present petitions are squarely covered by the judgment relied upon by the learned counsel for the petitioners.

Heard and perused.

It is apposite to refer to the judgment in the case of **Shallu and others** (supra), filed by some of the co-accused, wherein the present FIR, qua them was quashed by this Court, while observing thus:

“After hearing learned counsel for the parties, I find merit in the present petition for the following reasons:

(a) A bare perusal of the FIR shows that the Investigating Officer received an information that on the Hansi branch bridge at Safidon, there was a traffic jam and a long queue of vehicles. When he reached on the bridge, he saw that in the middle of the bridge, 25/30 ladies and gents were sitting, some of whom were named in the FIR, and they were instigating for holding a traffic jam. When the Investigating Officer asked them to allow the traffic to pass, they replied that till the SDM comes at the spot, they will not open the traffic jam. It is further alleged in the FIR that all the persons present at the spot said that they are working as Extension Lecturers in the Govt. High Schools and till the Government regularizes their services, they will continue to hold such type of agitation. Thus, from the bare perusal of the FIR, no offence under

Sections 143, 147 and 149 of the IPC is made out as there is no allegation of rioting or creating an unlawful assembly.

(b) A bare perusal of the FIR further shows that there was no wrongful restraint of any person so as to invoke Section 347 IPC as it is the case of the prosecution that the petitioners have held a traffic jam in an open place. The only offence which can be made out is under Section 283 IPC, which is causing obstruction in public way, for which the punishment is of fine of Rs. 200/-.

(c) A perusal of report, submitted under Section 173 Cr.P.C., as shown by learned State counsel, reveals that only three police officials have been cited as witness, who were present at the spot along with ASI Parveen Kumar. Therefore, there was no complaint from the general public that they were being obstructed on account of the traffic jam created by the petitioners.

(d) Even there is no allegation in the FIR, the agitation held by the petitioners was either violent or intended to wrongfully restrain any person including the police officials.

(e) It is worth noticing that the petitioners are the Extension Teachers and they are facing prosecution since 2015 i.e. for the last five years and as per the affidavit of Inspector General of Police, the case is still at the stage of investigation by the SIT, as directed by the Illaqua Magistrate, vide its order dated 21.08.2017, therefore, the petitioners, who are teachers and were holding a peaceful protest, have already undergone agony of trial for a period of five years.

(f) Though, the petitioners, well within their right, can hold a peaceful agitation, yet, no such agitation can be held on a public passage and, therefore, in view of the judgment in Kodungallur Film Society's case (supra), the petitioners are liable to pay costs.

(g) Therefore, in view of the judgment of Hon'ble Supreme Court in State of Haryana and others vs. Ch. Bhajan Lal and others, 1991 (1) R.C.R. (Criminal) 383 and from the bare perusal of the impugned FIR, no offence under Sections 114, 143, 147, 149, 283 and 341 of the IPC is made out.”

It is apparent from the final report under Section 173 CrPC., only three police officials were present at the spot, who have been cited as witnesses. There was no complaint from the general public that they were being obstructed on account of a traffic jam created by the accused-petitioners. There is neither any allegation in the FIR that the agitation held by the petitioners was either violent or intended to wrongfully restrain any person including the police officials nor of causing any harm or injury by the petitioners to anyone. None of the ingredients of the Sections under which the FIR was lodged are attracted.

Finding the facts and circumstances of the present case being squarely covered by the aforesaid judgment and the law laid down by Hon’ble The Supreme Court in the case of **State of Haryana and others vs. Ch.Bhajan Lal and others**, 1991 (1) RCR (Cri) 383, thus, continuation of proceedings against the petitioners would be an abuse of the process of law.

Resultantly, both the petitions succeed. FIR No.106 dated 27.03.2015 under Sections 114, 143, 147, 149, 283, 341 of IPC registered at Police Station Safidon, District Jind and the consequential proceedings arising therefrom are hereby quashed qua the petitioners.

A photocopy of the judgment be placed on the file of connected case.

(AMAN CHAUDHARY)
JUDGE

January 25, 2023
S.Sharma (syr)

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