

CRM-M-10417 of 2020
Date of Decision: 11.05.2023.

Hardeep Kumar	Versus	...Petitioner
State of Haryana and another		...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashok Arora, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Pratham Sethi, Advocate for respondent No.2-complainant.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C is to quash criminal proceedings qua petitioner initiated in case FIR No.400 dated 19.10.2019 registered under Sections 307, 427 and 120-B IPC at Police Station Sadar Fatehabad.

2. Petitioner and respondent No.2 (complainant of FIR) are husband and wife. Their marriage was solemnized on 10.10.2016. According to petitioner, respondent No.2 had left his society without any reason and started living separately. It is contended that on the basis of statement of respondent No.2, initially the FIR in question was registered under Sections 279, 336, 337, 427 IPC against an unknown person. However, on the basis of application dated 30.10.2019 made by respondent No.2, Section 307/120-B IPC were added and the petitioner was falsely implicated. Learned counsel for the petitioner contends that a deliberate attempt has been made by respondent No.2 to falsely implicate the petitioner on account of the matrimonial dispute. Representation dated

30.10.2019 was made 12 days after recording of the FIR by changing the version altogether regarding the manner of accident. It is further submitted that there is no evidence regarding any conspiracy with the driver of the Toyota Car in question. As per prosecution case, a CCTV footage was found which was handed over to the Police but that CCTV footage or photographs are not admissible in view of Section 65-B of the Evidence Act. Still further, possibility of the alleged offence is ruled out by the medical evidence, which otherwise, is not in consonance with the statement of the complainant. It is also submitted that the petitioner has been connected with the crime on the basis of disclosure statement, which is inadmissible. With all these submissions, prayer is made for quashing the FIR in question and the consequential proceedings.

3. As per the status report filed by respondent No.1- State by way of affidavit of Shri Ajaib Singh, Deputy Superintendent of Police, Fatehabad, District Fatehabad (Haryana), initially FIR was registered under Sections 279, 336, 337, 427 IPC on the basis of statement of respondent No.2- Sonia, as per which her scooty was hit on 18.10.2019 from behind by a white coloured Toyota Car, which was being driven rashly and negligently and that she had sustained injuries on her neck and waist and that driver of the Toyota Car had fled away. However, during investigation, complainant moved application dated 30.10.2019 for fair and proper investigation. It was alleged by her that conspiracy has been hatched by her husband Hardeep Kumar (present petitioner) so as to kill her in collusion with Santosh Kumar and Deepak, all of whom were part of the plan and had attacked the complainant on 18.10.2019, while she

was returning from Bank to her home in Fatehabad. She also produced six photographs developed through toll plaza, from where car No.HR-06M-9909 crossed.

4. During course of investigation, call detail records of the mobile number belonging to the petitioner, co-accused Santosh and that of Deepak were collected and it was found that petitioner and co-accused Santosh were in continuous contact with each other from 15.10.2019 to 18.10.2019. Mobile location of co-accused Santosh on 18.10.2019 was of Narel Khera, Ding Road at 04:51 PM. Mobile Phone of Santosh remained switched off from 18.10.2019 at about 04:51 PM to 19.10.2019 at 04:16 AM and thus, location of Santosh was at Kailana, Sonipat. Further, mobile location of co-accused Deepak was of Dariyapur from 04:45 PM to 04:59 PM on 18.10.2019. Conversation had also taken place between Santosh and petitioner. It was found during course of investigation that petitioner had conspired with co-accused Deepak and Santosh and attempted to murder his wife (complainant), due to matrimonial discord and accordingly, commission of offence under Sections 279, 336, 337 IPC was not found. These Sections were deleted and were replaced by Sections 307 and 120-B IPC. Status report further reveals that during the course of investigation, petitioner and two co-accused Deepak and Santosh were joined in the investigation and were arrested. All of them suffered disclosure statements. Co-accused Santosh got recovered Toyota Car used in the crime. All the accused also got recovered mobile phones used during the entire conspiracy. Call detail records and necessary certificates under Section 65-B of the

Evidence Act have been collected. After completion of investigation, final report under Section 173 Cr.P.C, has already been submitted in the Court to prosecute the petitioner and two others under Sections 307, 120-B and 427 IPC and that 22 witnesses have been cited by the prosecution to prove the charges and case is now fixed for charge consideration before learned Additional Sessions Judge, Fatehabad (Haryana).

5. Respondent No.2 adopted the same reply as filed by respondent No.1, as per the statement made by learned counsel on 13.04.2023.

6. Having considered submission of both the sides, I find no merit in this petition so as to quash the FIR in question.

7. Inherent powers of the High Court are to be exercised sparingly. In **State Of Haryana And Ors vs Ch. Bhajan Lal, 1992 AIR 604**, Hon'ble Supreme Court laid down guidelines as to in which cases, quashing of FIR can be allowed. It was held as under:

“8.1. In the exercise of the extra-ordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the Code of Criminal Procedure, the following categories of cases are given 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 channelised and inflexible guide- in myriad kinds of cases wherein such power should be exercised:

(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;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;

(c) 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;

(d) 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;

(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;

(f) 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;

(g) where a criminal proceeding is manifestly attended with malafide 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.”

8. Having considered submissions of both the sides and applying the legal position to the facts of present case, it is found that no doubt, initially FIR on the basis of statement of complainant- respondent No.2 was lodged for commission of offences under Sections 279, 336, 337, 427 IPC against unknown person but it was alleged by the complainant that her FIR had not been recorded as per the statement made by her by the concerned Investigating Officer. She had asked the Superintendent of Police concerned for conducting fair & proper investigation. As the status report filed by respondent- State reveals, on conducting the investigation, it was found to be a case of conspiracy hatched by the petitioner, who is the husband of complainant along with the co-accused, so as to kill his wife. As far as plea taken by the petitioner to the effect that CCTV footage or call detail records cannot be taken into consideration, this is a matter of trial. Petitioner is at liberty to take all these defences during trial. The case does not fall in any of the categories in which the FIR can be quashed as per the guidelines provided in **Bhajan Lal's case (supra)**.

9. In view of the aforesaid discussion, there is no reason to quash the FIR. As such, this petition is dismissed.

May 11, 2023

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(DEEPAK GUPTA)

JUDGE

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