

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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2023:PHHC:095346

CRM-M-22536-2019

Date of decision: July 26th, 2023

Aditya Vikram Daga

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Suman Jain, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General, Haryana.

MANJARI NEHRU KAUL, J.

The instant petition is for quashing of FIR No.177 dated 23.03.2018 under Sections 279 and 304-A of the Indian Penal Code, 1860 registered at Police Station Sector-5, Panchkula and the consequential proceedings arising out of the same.

2. Learned counsel appearing for the petitioner contends that deceased Shivraj, who was plying an E-rickshaw, was hit by an unknown vehicle which resulted in his death. While drawing the attention of this Court to the FIR, which has been annexed as Annexure P-4, it has been further submitted that a perusal of the same clearly reveals that even therein it had been stated by the complainant i.e. brother of deceased Shivraj, that his brother, who was plying his E-rickshaw had been hit from behind by the driver of an unknown vehicle, which resulted in his brother sustaining head injuries. Thereafter his brother was admitted by some passerby in Civil Hospital, Panchkula, from where he was then referred to Government Medical College and Hospital (GMCH), Sector 32, Chandigarh, however, his brother was declared dead.

3. Learned counsel for the petitioner further contends that the petitioner was a victim of false implication in spite of the fact that being a good samaritan, he rushed to the rescue of the deceased when an unknown vehicle hit his E-rickshaw, and thereafter removed the deceased to the hospital. However, a concocted story had been brought forth against the petitioner, even though, it was evidently a hit and run case. Learned counsel has further submitted that the petitioner had been nominated as an accused in the case in hand firstly on the basis of a CCTV footage collected from GMCH-32, wherein the car of the petitioner was seen parked and on the basis of an extra judicial confession suffered by him before one Surmukh Singh, whom he telephonically informed that his car bearing registration No.HR 26 B2 0285 had been involved in an accident with the E-rickshaw as a result of which the driver of the E-rickshaw had sustained serious injuries and after removing the injured driver to the hospital, he had fled away from there being scared. Learned counsel for the petitioner, while drawing the attention of this Court to Annexure P-12 i.e. the statement of said Surmukh Singh (witness of extra judicial confession), has submitted that though the telephone number of Surmukh Singh finds mentioned therein, however, the call details of the petitioner which had been collected by the investigating agency during the course of investigation reveal that no calls had been made to Surmukh Singh from the mobile phone of the petitioner. He submits that, thus, it left no manner of doubt that the petitioner was innocent and had been falsely implicated in the case in hand.

4. Learned counsel appearing for the State has vehemently opposed the prayer and submissions made by the counsel opposite and prayed for dismissal of the instant petition. It has been submitted that subsequent to the registration of the FIR in question, a thorough investigation was carried out and enough evidence had been collected by the investigating agency including CCTV footage and an extra judicial confession made by him before one Surmukh Singh, who was none other than the relative of the deceased, which clearly hinted towards the *prima facie* involvement of the petitioner in the accident in question.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. It needs to be reiterated that quashing of an FIR should be an exception rather than an ordinary rule as has also been held by the Hon'ble Supreme Court in *M/s Neeharika Infrastructure Private Limited Versus State of Maharashtra 2021 SCC Online 315*. No doubt, this Court is vested with wide powers under Section 482 Cr.P.C., however, the inherent powers of this Court must be exercised with a great deal of circumspection. The contention of the learned counsel for the petitioner that the petitioner being a good samaritan had just rushed to the rescue of the deceased and admitted him in the hospital for treatment and thus had no role in causing the accident in question, would be a matter to be delved into at the time of trial. This Court cannot, at this stage, go into the authenticity or otherwise of the allegations as well as the material collected by the investigating agency in its final report under Section 173(2) Cr.P.C., which already

stands presented before the trial Court. Moreover, while exercising its powers under Section 482 Cr.P.C., this Court has to just consider as to whether the allegations leveled in the FIR *prima facie* disclose the commission of a cognizable offence or not.

7. As a sequel to the above, this Court is not inclined to invoke its inherent jurisdiction under Section 482 Cr.P.C. and quash the FIR in question.

8. The petition, therefore, stands dismissed.

9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 26th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No