

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

CRM-M-42141-2020

Date of Reserve:02.08.2023

Date of Decision:18.10.2023

Jaswaranjit Bhagi and Anr.

...Petitioners

Vs.

State of Punjab and Anr.

...Respondents

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

Present: Mr.Namit Gautam, Advocate
 for the petitioners.

Mr. Mohit Chaudhary, AAG, Punjab.

Mr. Dhanpat Rai Singh, Advocate
for respondent No.2.

N.S.Shekhawat J.

1. The petitioners have filed the present petition under Section 482 Cr.P.C. for quashing of an FIR No. 427 dated 29.12.2019 under Sections 295, 323, 506 of IPC registered at Police Station Phillaur, Police District Jalandhar Rural (Annexure P-1) alongwith all the consequential proceedings arising therefrom.

2. The FIR in the present case was got registered by Lakhbir Singh son of Gurpal Singh, Member Panchayat of Village Nagar, Police Station Phillaur, District Jalandhar. As per the complainant, he was also the Member of the Committee of Guru Nanak Singh Sabha Gurudwara, Village Nagar and followed the Sikh religion. Jaswaranjit Singh and his son Gagandeep Bhagi, residents of their village were making steps in front of their newly constructed shop and he and Nirmal Singh Sarpanch had stopped them on 20.12.2019 by saying that the passage (street) was already very narrow and

by constructing the steps in front of the shops, the passage will become narrower. Apart from that, the passage also led to Gurudwara Sahib and no vehicle would be able to pass through and the persons were stopped from making steps. On 21.12.2019, again the abovesaid persons started making steps in front of their shops. The complainant, being Member of the Panchayat again went there and stopped them from making steps at about 02:00 PM. When he was stopping them, there was exchange of hot words. On hearing the noise, Jasvir Singh, Mahinder Kaur, Santosh Kumari and Kulvir Singh residents of the village also came at the spot. In the meanwhile, Jaswaranjit Singh raised lalkara and told his son to catch hold of him and to teach him a lesson for stopping them for making the steps. Gagandeep caught him from his jacket and started slapping him. When he tried to save himself, Gagandeep caught his beard and pulled the hair of his beard and pushed his Turban. He saved his Turban and the persons, who were present there rescued him from them. This incident was witnessed by Jasvir Singh, Mahinder Kaur, Santosh Kumari and Kulvir Singh. On this, Gagandeep and his father Jaswaranjit Singh went from the spot. The complainant further stated that the accused had insulted his religion by pulling his beard and had also extended threats to kill him. With these allegations, the FIR in the present case was got registered by the complainant.

3. Learned counsel for the petitioners vehemently argued that the petitioners had been falsely involved in the present case due to party faction in the village. In fact, the petitioners and their family had supported Jagbir Singh, a candidate in the Panchayat elections, who was opposing the complainant. In the said election, Lakhbir Singh won as Member of Gram Panchayat by

defeating Jagbir Singh. He further contends that the occurrence had allegedly taken on place on 21.12.2019, but the FIR in the present case was got registered by the complainant on 29.12.2019. In fact, initially, the police authorities were not inclined to register the FIR as no offence was made out against the petitioners. However, the complainant is a Member of Panchyat and is also Member of the Gurudwara Committee of the Village and by using his political influence, he got the FIR registered after a delay of 8 days. Learned counsel further contended that in the present case, the complainant had not suffered any injury at all and there was no question of any medical examination. Still further, the ingredients of offence under Section 506 IPC were completely missing in the instant case. In fact, from the FIR itself, it was clear that the alleged threat was not followed by any overt act. The law is well settled that empty threats do not make out case under Section 506 IPC. He further contends that it has been held by this Court in the matter of ***Usha Bala Vs. State of Punjab, 2002(3) RCR Criminal 445 as follows:-***

“2.A perusal of the FIR, Annexure P-2, shows that it is mentioned in it that the petitioner unnecessary interfered in their married life and had given threats to finish her. Counsel for the petitioner contended that the petitioner had never given any threats and she was not in a position to give any threat and in fact she had got nothing to do with the married life of Somnath and respondent No.2. It appears that the petitioner had been named only due to some jealousy or mis-understanding. Empty threats does not prima facie mean that the case under Section 506 Indian Penal Code is made out against the petitioner. Hence, in face no case is made out against the petitioner”.

4. Learned counsel further contended that even no offence under

Section 295 IPC was made out against the present petitioners. Section 295 IPC have been reproduced below:-

“295. Injuring or defiling place of worship, with intent to insult the religion of any class.--Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

5. Learned counsel further submitted that in the present case, even as per the case of the complainant, there was a fight between the petitioners on one side and the complainant on the other side. As per the allegations in the FIR also, out of anger and by any stretch imagination, it cannot be said that the beard was held by the petitioner No.2 with an intention to hurt the religious feelings of the complainant. Learned counsel further contended that the FIR in the present case was lodged due to party faction in the village. Apart from that, the petitioners had constructed certain shops on the passage and even while referring to the photographs Annexure P-3, learned counsel contended that all the shopkeepers on the same passage had constructed small steps to enter the shops and in no way, it had caused any obstruction in the passage, which leads to the Gurudwara. However, the complainant lodged the FIR by coining a false version.

6. On the other hand, learned State counsel submitted that during the course of investigation, the allegations levelled by the complainant were found

to be correct and the offence under Sections 323,295,506 of IPC was made out against the petitioners and after finding sufficient evidence against the petitioners, the challan has already been presented against the petitioners.

7. I have heard the learned counsel for the parties and perused the record.

8. In the present case, the petitioners/accused have been charged for commission of the offences under Sections 323,295,506 of IPC. As per the submissions made by both the sides, it has been alleged by the complainant in the present case that injuries were caused to him by both the petitioners. However, the complainant did not bother to get himself medico-legally examined from any hospital and even there was no evidence to show that the complainant was ever treated by any doctor for the injuries suffered by him in the present incident. Still further, it is highly unbelievable that two persons i.e the petitioners had caused injuries to the complainant and he did not suffer even a bruise in the said incident. Apart from that, the petitioners had correctly submitted that the petitioners had been named only due to political enmity between the parties. The law is well settled that empty threats do not make out an offence under Section 506 IPC. Such empty threats do not cause any alarm in the mind of the complainant and the offence under Section 506 IPC was not made out against the present petitioners.

9. Apart from that, the petitioners have been wrongly charged for the offence under Section 295 IPC. Section 295 of IPC makes destruction, damage or defilement of a place of worship or an object held sacred, with intent to insult the religion of a class of a persons, punishable with imprisonment which may extend to two years or fine or with fine, or with both. This section has been

enacted to compel the people to respect the religious susceptibilities of the persons of different religious persuasion or creeds. The ingredients of Section 295 IPC are:-

- (a) The accused must do such an act with the intention of insulting the religion of any person, or with the knowledge that any class of person is likely to consider such destruction, damage or defilement as an insult to their religion.
- (b) The accused must destroy, damage or defile any place of worship or any object which is held as sacred by any class of persons.

10. In the present case also, it is apparent that no offence under Section 295 IPC is made out against the present petitioners.

11. Section 482 of Cr.PC, which saves inherent powers of the High Court provides as under:-

“482. Saving of inherent powers of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

12. In *State of Haryana and others Vs. Ch. Bhajan Lal and others (SC) : 1991 (1) RCR (Criminal) 383*, Hon'ble Supreme Court has observed as under:-

"107. 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 channelised 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 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.
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 F.I.R. do not constitute a cognizable offence but constitute only a noncognizable 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 F.I.R. 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."

13. In ***Varala Bharath Kumar v. State of Telangana, (SC) : 2017(4)***

R.C.R.(Criminal) 113 Hon'ble Supreme Court observed as under:-

"It is by now well settled that the extraordinary power under Article 226 or inherent power under section 482 of the Code of Criminal Procedure can be exercised by the High Court, either to prevent abuse of process of the court or otherwise to secure the ends of justice. Where allegations made in the First Information Report/the complaint or the outcome of investigation as found in the Charge Sheet, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out the case against the accused; where the allegations do not disclose the ingredients of the offence alleged; where the uncontroverted allegations made in the First Information Report or complaint and the material collected in support of the same do not disclose the commission of offence alleged and make out a case against

the accused; 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, the power under Article 226 of the Constitution of India or under section 482 of Code of Criminal Procedure may be exercised.”

14. In view of the above-referred judicial precedents and the facts and circumstances of the case, continuation of the proceedings against the petitioner will be gross abuse of the process of law and will result in grave miscarriage of justice. Continuation of the same will put the petitioner to great oppression and extreme injustice will be caused to the petitioner if the FIR and all consequential proceedings are not quashed.

15. In view of the above discussion, the present petition is allowed and FIR No. 427 dated 29.12.2019 under Sections 295,323,506 of IPC registered at Police Station Phillaur, Police District Jalandhar Rural (Annexure P-1) is ordered to be quashed alongwith all the consequential proceedings arising therefrom.

18.10.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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