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

**CRM-M-44464-2023
Date of Decision: 06.09.2023**

Gurjeet Singh and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aseem Sharma, Advocate,
for the petitioners.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure with a prayer for quashing of the FIR bearing No.14, dated 14.02.2023, registered under Sections 379-B, 411 & 34 IPC, registered at Police Station Badali Ala Singh, District Fatehgarh Sahib on the ground that no *prima facie* case is made out against the petitioners.

2. As per the contents of the FIR, a complaint was lodged by Kanhaiya Lal (Respondent No.2) by alleging that he has been working as Salesman in Essar Petrol Pump, Pirjain Police Station Badali Ala Singh for around five years and on 14.02.2023, he was on duty at the Petrol Pump and it was around 3:40 PM when a white Scorpio car came in which one person was driving the car and another person was sitting next to driver's seat and the person, who was sitting on next to driver's seat asked him to put diesel for Rs.500/- in the car. On asking money for diesel, one person took out an iron

screwdriver from the car to which the complainant got scared and that person grabbed the black cash bag from his hand and immediately sat in the car and the other person who was sitting in the driver seat drove the car away and the car along with two persons escaped to Chandigarh side. It is further stated in the FIR by the complainant that he can recognize these people at the moment they appear in front of him and his bag contains about Rs.10,000/- in cash along with his Adhaar Card and also receipts of Rs.500/- of other customers who swiped their cards at the petrol pump.

3. Learned counsel for the petitioners has submitted that after registration of the FIR, the complainant has given an affidavit to the petitioners vide Annexure P-2 that he had mistakenly named the petitioners and they were not present at that time and therefore, the present FIR may be quashed.

4. On the other hand, Mr. Ramdeep Partap Singh, learned Senior Deputy Advocate General, Punjab on instructions from ASI Harpinder Singh submitted that the police has not even received such kind of affidavit which has been so attached by the petitioners in the present petition. He further submitted that the matter is still at the investigation stage and the FIR cannot be quashed only on the ground that the complainant had given the affidavit to the petitioners whereas in fact in case any compromise has been effected or there is some mistake with regard to identity, then such fact has to be brought to the notice of the police so that further process can be carried out in this regard. He also submitted that the petitioner is a habitual offender and is involved in two more cases.

5. I have heard the learned counsels for the parties.

6. The petitioner has filed the present petition under Section 482

Cr.P.C. for quashing of the FIR on merits and not on the basis of compromise and the ground which has been taken by the petitioners in the present petition is that the complainant had furnished an affidavit but the learned State counsel has denied the same by stating on instructions that no such affidavit has been received by the police. The matter is still at the investigation stage. The petitioner is also stated to be a habitual offender. This Court is of the view that merely by attaching an affidavit of the complainant does not mean that provision of Section 482 of the Code of Criminal Procedure can be invoked and the FIR can be quashed on merits rather instead of filing a petition before this Court, the petitioner ought to have apprised the same to the concerned Investigating Officer with regard to the aforesaid affidavit, if any. Apart from the above, the FIR can only be quashed on merits when there are strong circumstances and *prima facie* strong case is made out. This Court is of the view that the present case is not covered by the law laid down by the Hon'ble Supreme Court in “State of Haryana and others Vs. Ch. Bhajan Lal and others”, 1991(1) RCR (Criminal) 383 and “M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others” 2021 AIR (SC) 1918.

7. Therefore, finding no merit in the present case, the same is hereby dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

9. Before parting with the judgment, this Court also takes cognizance of the language used in the FIR wherein religion of an accused has been mentioned. This is a serious issue. Earlier this Court had taken a cognizance

with regard to mentioning of a caste of a person in the FIR or in any police proceedings but so far as the mentioning of a religion of a person is concerned, the matter came up before this Court pertaining to State of Punjab in CRM-M-50330-2021 wherein an affidavit dated 07.03.2022 was filed by the Assistant Inspector General of Police, Litigation, Bureau of Investigation, Punjab by annexing the instructions issued by the Director General of Police, Punjab that henceforth the religion of a person will not be mentioned. Thereafter, even the Director General of Police, Punjab had also filed an affidavit dated 19.09.2022 in CRM-M-42705-2022 with regard to the corrective measures being taken.

10. The aforesaid affidavit was filed in the year 2022 whereas the present FIR has been lodged in 2023.

11. In view of the above, the Senior Superintendent of Police, Fatehgarh Sahib is directed to look into this and take appropriate measures in accordance with law.

12. It also appears that the police officials of the State of Punjab have not been properly sensitized and therefore, copy of this order be also sent to the Director General of Police, Punjab with a direction that in order to avoid any repetition, the necessary action be taken for sensitization of all the police officials of the State of Punjab.

06.09.2023*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No