

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.113

Case No. : CRM-M-51503-2022 (O&M)

Date of Decision : March 14, 2023

Manoj Kumar

.... Petitioner

vs.

State of Haryana and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Punam Singh, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

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GURBIR SINGH, J. :

CRM-11437-2023 :

This is application under Section 482 Cr.P.C. for placing on record the order dated 05.09.2022 of learned Motor Accident Claims Tribunal (MACT), Gurugram.

For the reasons mentioned in the application, the same is allowed and order dated 05.09.2022 passed by Presiding Officer, MACT, Gurugram is ordered to be taken on record as Annexure A-1. Registry is directed to place the same at appropriate place.

The application stands disposed of.

Main Case :

This is a petition under Section 482 Cr.P.C. for quashing the FIR No.1633 dated 10.10.2022, under Sections 420, 467, 468 and 471 IPC, registered at Police Station Shivaji Nagar, Gurugram (Annexure P-1).

Learned counsel for the petitioner states that the present FIR was registered on the basis of a complaint made by one Arun Kumar, Branch Manager, who is the authorized person of respondent no.2 – Shri Ram General Insurance Co. Ltd. to file a complaint.

Brief facts of the case are that a claim petition titled *Smt. Shyama and others vs. Umed Singh and others* was filed under Section 166 of the Motor Vehicles Act, 1988, by legal heirs of one Rakesh Kumar, who died in an accident. Respondent no.2 – Insurance Company moved an application for dismissal of the petition on the ground that the present petitioner had submitted forged insurance policy as the petitioner's truck was not insured with respondent no.2 on the date of accident i.e. 05.10.2016 and in fact, the insurance policy dated 18.10.2016 was issued for a period “from 18.10.2016 to 17.10.2017” (Annexure P-8) but the petitioner had fraudulently forged the insurance policy by changing its period clause to “from 02.10.2016 to 01.10.2017” (Annexure P-9).

Learned Presiding Officer, Motor Accident Claims Tribunal, Gurugram (hereinafter called – MACT, Gurugram), while deciding application of respondent no.2 for dismissal of claim petition, vide order dated 16.04.2022, concluded that insurance policy Annexure P-9 was prima facie a forged document. Since the date of pre-inspection was 17.10.2016, so the policy could not have been issued just retrospectively. The matter was referred to the local police to inquire/investigate the matter.

Vide order dated 15.07.2022 (Annexure P-3), adverse order against SHO concerned was passed and he was summoned for 03:00 PM on the same day and was asked to show cause as to why proceedings under

Section 166(A)(b) IPC should not be initiated against him. He was also directed to bring along the Head of Department of respondent no.2 Insurance Company to explain laxity in pursuing its complaint of fraud. After 03:00 PM, after hearing concerned SHO and representative of respondent no.2 Insurance Company, learned Presiding Officer, MACT, Gurugram gave time up to 02.08.2022, on which date, Report from SHO was received stating that the policy was found to be forged. Learned Presiding Officer directed respondent no.2 Insurance Company to launch the prosecution against the fraudsters and to report about the action taken.

Learned counsel for the petitioner has submitted that a perusal of the proceedings by the learned Presiding Officer, MACT, Gurugram shows that the impugned FIR was impelled by the overzealous and overreaching approach by the learned MACT and it was beyond its jurisdiction. MACT has no power of a Judicial Magistrate and is not a Criminal Court. So, it could not direct/order investigation by the police. The FIR in hand was registered after the concerned SHO found himself in a precarious position of facing action. Since MACT is a Civil Court, the Presiding Officer was empowered to file a complaint under Section 340 Cr.P.C. with the Magistrate to take action. The Inspection date recorded in the alleged forged policy is an inadvertent error on the part of the insurance agent. If any offence is committed, the same was committed by agent of respondent no.2 Insurance Company against the petitioner as a statement dated 29.07.2022 of one Rupesh Kumar (Annexure P-12) shows that his wife was an Insurance Agent but he was the one who made the cover note (Annexure P-11) and the cover note produced by the petitioner did not have

his writing.

In support of his contentions, learned counsel has also relied upon principle of law enunciated by Hon'ble Supreme Court in **State of Haryana and others vs. Bhajan Lal and others** reported as **1992 Supp. (1) SCC 335**.

Heard.

The FIR in question (Annexure P-1) was registered on the complaint of Arun Kumar, Branch Manager, authorized by respondent no.2 – Shri Ram General Insurance Co. Ltd. to file a complaint. In the order dated 16.04.2022, learned Presiding Officer, MACT, Gurugram, while deciding application of respondent no.2 for dismissal of claim petition, directed the SHO concerned to inquire/investigate the matter and to proceed in accordance with law against the culprits. On 02.08.2022, learned MACT directed respondent no.2 Insurance Company to launch the prosecution against the fraudsters and to report about the action taken. On 10.10.2022, the concerned SHO, in compliance of the order dated 02.08.2022, intimated in writing that the FIR would be lodged on the next day. On 11.10.2022, a copy of the FIR was submitted in the Court. Since FIR was not registered at the instance of MACT, rather proceedings were initiated by the Branch Manager of respondent no.2 Insurance Company, the argument of learned counsel for the petitioner, that MACT could not have ordered for registration of an FIR, is without any basis and is against the facts. No doubt, learned MACT actively involved itself in getting the instant FIR registered but the same is mere irregularity and the FIR in hand cannot be quashed on this ground. The investigation of the case is going on. At this

stage, investigation cannot be scuttled.

The quashing of FIR should be an exception rather than an ordinary rule. The power of quashing should be exercised sparingly in rare cases. In case **Jaswant Singh vs. State of Punjab and another – 2021 SCC Online SC 1007**, the Hon'ble Supreme Court has held as under :-

“15. The power under [Section 482](#) Cr.P.C. is to be exercised to prevent the abuse of process of any Court and also to secure the ends of justice. This Court, time and again, has laid emphasis that inherent powers should be exercised in a given and deserving case where the Court is satisfied that exercise of such power would either prevent abuse of such power or such exercise would result in securing the ends of justice...”

In case **Satvinder Kaur vs. State (Govt. of NCT of Delhi) – (1999) 8 SCC 728**, the Hon'ble Supreme Court has held as under :-

“14. Further, the legal position is well settled that if an offence is disclosed the court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed. If the FIR, prima facie, discloses the commission of an offence, the court does not normally stop the investigation, for, to do so would be to trench upon the lawful power of the police to investigate into cognizable offences. [[State of W.B. v. Swapan Kumar Guha, \(1982\) 1 SCC 561: 1982 SCC \(Cri\) 283](#)] It is also settled by a long course of decisions of this Court that for the purpose of exercising its power under [Section 482](#) CrPC to quash an FIR or a complaint, the High Court would have to proceed

entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se; it has no jurisdiction to examine the correctness or otherwise of the allegations.”

In case **Dineshbhai Chandubhai Patel vs. State of Gujarat – (2018) 3 SCC 104**, it was held by Hon’ble Supreme Court as under :-

“31. In our considered opinion, once the court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate probe to unearth the crime in accordance with the procedure prescribed in [the Code](#).

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34. On perusal of the three complaints and the FIR mentioned above, we are of the considered view that the complaint and the FIR do disclose a prima facie commission of various cognizable offences alleged by the complainants against the accused persons, and therefore, the High Court instead of dismissing the application filed by the accused persons in part should have dismissed the application as a whole to uphold the entire FIR in question.”

In case **M/s Neeharika Infrastructure Private Limited vs. State of Maharashtra – 2021 SCC Online SC 315**, Hon’ble Supreme Court has held as under :-

- “i. Police has the statutory right and duty under the relevant provisions [of the Code](#) of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;*
- ii. Courts would not thwart any investigation into cognizable offences;*
- iii. Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

iv. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;”

In the instant case, upon perusal of the FIR, a prima facie case is made out. Therefore, there is no reason warranting indulgence of this Court to interfere with the investigation of the case. The petition is without any merit and the same is accordingly dismissed.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

March 14, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>