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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-56442-2022 (O&M)

Date of Decision: 28.11.2023

Ashok Kumar

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aman Pal, Advocate, for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

None for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of FIR No.124 dated 01.05.2022, under Sections 323, 506 IPC (Section 34 IPC added later on) and Sections 75 and 82 of Juvenile Justice (Care and Protection of Children), Act, 2015, registered at Police Station Civil Lines Jind, District Jind, Haryana alongwith all other consequential proceedings.

2. The contents of the present FIR as translated by the petitioner and attached alongwith the present petition as Annexure P-1 is reproduced as under:-

“To the SHO Police Station Civil Lines Jind. Subject:- About Beating child in the hostel of academy. Respected Sir it is

submitted that my son namely Yuwan aged 9 years S/o Harsh Mor was admitted to Royal Defence Academy situated at village Habetpur near sector 8-9, district Jind on 25.03.2022 for preparation to get admission in Sainik School. My son was badly beaten by a teach namely Vivek with a plastic pipe, due to which he had serious injury mark on his thighs and legs. A copy of medical report has been attached herewith. On 30.04.2022 at about 4 PM I brought my child from academy to my house for the celebration of birthday of his younger brother. At about 8 PM when I was changing his cloths than I saw marks of injury on his body, when I asked my son about the same he got panicked. When I repeatedly asked him than he told me that due to his naughty behaviour while playing Vivek sir gave beatings with a plastic pipe on his back and legs as punishment. My son kept crying and requesting him to leave him but he still gave injuries to the child and threatened him that he will kill him and he directed him that he shall not disclose this fact to his family When Yuwan was asked with love than he disclosed that on Friday 22nd April 2022 also he was beaten the same way as he failed to solve question of mathematics and due to the same he was in pain for 3-4 days and he was not even able to sleep. The management of the academy did not provided any medicine for his injuries. The child is mentally harassed and silent. Due to the fear of management of academy the child was not able to disclose about the incident to me when I went to meet him on Sunday 24th April 2022. He disclosed all these facts on 30.04.2022 at Narwana when we asked him with love. It is an humble request to you that the matter may be investigated and strict legal action may be taken against the management of the academy and teacher Vivek, who are responsible for mental and physical harassment of my child. In this matter a complaint is also sent to Hon'ble Chief Minister through CM window and to Home Minister of Haryana government Anil Vij and to Child Welfare officer by Harsh Mor Advocate. It is therefore against requested from you that a strict legal action may be taken against the accused persons. SD/- Harsh,

Harsh Mor Father of Yuwan, Advocate Narwana.”

3. Mr. Aman Pal, Advocate appearing on behalf of the petitioner submitted that in the present case the allegations were that there was one boy namely, Yuwan of the age of 9 years and he was a student of one Royal Defence Academy, village Habetpur near Sector 8-9, District Jind and he was preparing for admission to the Army School. On 01.05.2022, the present FIR was lodged on the basis of the allegations made by the father of the aforesaid child that on 30.04.2022 i.e. one day prior to the lodging of the FIR, he took his son from the academy for the birthday of his younger son and he saw injury marks on the body of the child and he got scared and he was told by him that one teacher namely, Vivek who is also a co-accused in the present case had beaten him up with a plastic pipe on his legs and back many times for the purpose of inflicting corporal punishment for some mischief done by him while playing. Thereafter, on asking from him politely, he also informed that on 22.04.2022, when he could not solve one mathematics problem, he was beaten up and he also kept moaning in pain for 3-4 days in the academy. Learned counsel submitted that on the basis of the aforesaid allegations, the present FIR was registered but a perusal of the FIR would show that corporal punishment was inflicted by the other co-accused namely, Vivek whereas there is no allegation at all against the present petitioner who was only Director of the aforesaid academy. He submitted that when the aforesaid issue was brought to the notice of the present petitioner, who being Director and Administrative Head rather took action against the aforesaid co-accused namely, Vivek and his services were terminated. He further submitted that when the challan was presented after investigation by the police, then against him also challan was presented in

the aid of Section 34 IPC and also referred to a copy of the challan which has been attached alongwith the present petition as Annexure P-2 and a perusal of the same would show that during investigation also nothing was found against the present petitioner for committing any kind of atrocity or inflicting any corporal punishment to the aforesaid child whereas all the allegations were against the aforesaid co-accused namely, Vivek but in the aid of Section 34 IPC being vicariously liable as a Director of the Institute qua him also the challan was presented.

4. Learned counsel further submitted that when the State has filed reply/affidavit in the present case then in the affidavit, an improved version has been so stated that during investigation it was found that the petitioner also slapped the child but there is no allegation qua the petitioner even in the FIR that he has given any beating etc. or inflicting any corporal punishment to the child. He submitted that in this way so far as the provision of Section 75 and 82 of the Juvenile Justice (Care and protection of Children) Act, 2015 is concerned, there is no offence made out qua the petitioner. So far as Sections 323 and 506 IPC are concerned, on the face of it, they are not qua the petitioner because they are only qua the other co-accused namely, Vivek. He has also made reference to an order passed by a Co-ordinate Bench of this Court in *CRM-M-27813-2023, decided on 20.09.2023, titled Vivek vs. State of Haryana and another* and also produced a photocopy of the same before this Court during the course of arguments. The photostat copy of the aforesaid order is hereby taken on record as Mark-X. A copy of the same has also been supplied to the learned State counsel. While referring to the aforesaid order, he submitted that the aforesaid co-accused who was the main accused and qua whom the

allegations with regard to inflicting of corporal punishment and other offences were levelled by the complainant filed a petition before this Court for quashing of the FIR based upon compromise since the aforesaid co-accused namely, Vivek has already compromised with the complainant and on the basis of the compromise, a Co-ordinate Bench of this Court on 20.09.2023 quashed the FIR qua the aforesaid co-accused Vivek. He also submitted that since the main accused against whom the allegations were levelled, filed a petition before this Court for quashing of the FIR on the basis of compromise and the same has been allowed and has attained finality, then nothing would survive against the present petitioner because he was nominated only in the aid of Section 34 IPC and even otherwise also, there was no allegation with regard to beating or inflicting of any corporal punishment to the child by the petitioner and, therefore, further prosecution of the petitioner in the light of the facts and circumstances of the present case would not be in the interest of justice and, therefore, the present petition has been filed in order to secure the ends of justice for invoking the extraordinary power of this Court under Section 482 of the Code of Criminal Procedure. Learned counsel also referred to a judgment of Hon'ble Supreme Court in ***State of Haryana and others Vs. Ch. Bhajan Lal and others, 1992 SCC (Crl.) 426*** to contend that when on the face of it, the allegations were not made out then the FIR can be quashed at any stage alongwith consequential proceedings. He submitted that the petitioner being the Administrative Head and Director had rather taken a stern action against the co-accused Vivek and terminated his services and, therefore, further prosecution of the petitioner would not be in the interest of justice.

5. On the other hand, Mr. Naveen Kumar Sheoran, DAG, Haryana

submitted that so far as the present petitioner is concerned, qua him there was no allegation levelled in the FIR nor in the challan but he was nominated in the aid of Section 34 IPC. He has also not disputed that the main accused is the present case was Vivek and qua him the FIR stands quashed based upon compromise.

6. So far as the complainant is concerned, he was also impleaded as a party before this Court as respondent No.2 and on 05.12.2022, a Co-ordinate Bench of this Court had issued notice of motion and had stayed the further proceedings before the trial Court. Respondent No.2 was duly served after issuance of notice but he did not choose to appear before this Court. This fact has been duly recorded while passing the order on 03.05.2023 that as per office report, respondent No.2 is duly served but none has appeared on his behalf. Thereafter, the matter was adjourned for 24.08.2023 and again on that day respondent No.2 was also not represented by anybody. Today, again nobody has appeared on behalf of respondent No.2. It appears that respondent No.2 is not interested to appear and especially in view of the fact that he has already compromised the matter with the main accused and on the basis of the compromise, a Co-ordinate Bench of this Court has quashed the FIR qua the other co-accused.

7. After hearing the learned counsel for the parties, this Court is of the view that considering the aforesaid peculiar facts and circumstances wherein the main accused has already compromised the matter with the complainant and qua him the FIR stands quashed as aforesaid and so far as the present petitioner is concerned, he was challaned only in the aid of Section 34 IPC and even otherwise also, there is no allegation against him in the FIR or in the challan pertaining to beating, this Court is of the

considered view that continuation of the further proceedings against the present petitioner would not be in the interest of justice and in order to secure the ends of justice, the present petition deserves to be allowed and the FIR and all the consequential proceedings qua the present petitioner also deserve to be quashed.

8. Consequently, the present petition is allowed and FIR No.124 dated 01.05.2022, under Sections 323, 506 IPC (Section 34 IPC added later on) and Sections 75 and 82 of Juvenile Justice (Care and Protection of Children), Act, 2015, registered at Police Station Civil Lines Jind, District Jind, Haryana alongwith all other consequential proceedings are hereby quashed qua the present petitioner.

9. At this stage, learned counsel for the petitioner has been gracious enough to state that since the petitioner was the Director of Institute, he would voluntarily pay an amount of Rs. 10,000/- to the Indian Red Cross Society, Haryana State Branch, Red Cross Bhawan, Madhya Marg, Sector 16A, Chandigarh. It is, therefore, directed that the same be done within a period of three months from today.

28.11.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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