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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 10.05.2023
Pronounced on: 15.05.2023

+ **CRL.M.C. 5855/2019**

DEEPAK & ANR.

..... Petitioner

Through: Mr. Rakesh Chahar, Advocate

versus

STATE AND OTHER

..... Respondents

Through: Mr. Manoj Pant, APP for the
State with SI Sundar, P.S.
Punjabi Bagh

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure Code ('Cr.P.C') by the petitioner seeking quashing of FIR bearing No. 441/2019 registered at Police Station Punjabi Bagh, Delhi for offences punishable under Sections 365/392/411/34 of the Indian Penal Code, 1860 ('IPC').

2. Brief facts of the present case are that on 10.08.2019, the brother of the caller, Khurshid i.e., respondent No. 3/complainant, driver of the truck bearing license no. RJ 14 GJ 9221, was en route from Mundka, Delhi to Alwar, Rajasthan *via* Punjabi Bagh Round when unidentified

individuals i.e. the present petitioners driving an i20 car had instructed the complainant to halt the truck. The petitioners engaged in a quarrel with the complainant and had threatened him to give petitioners a sum of Rs. 20,000. When the complainant had refused to comply, the driver of the i20 car, Deepak i.e. petitioner no. 1, had called the other co-accused namely Ashwin i.e. petitioner no. 2 who had snatched complainant's mobile phone and documents of truck. Petitioner no. 2 had accompanied the complainant in his truck to an undisclosed location. After that, owner of the truck had informed the police of the truck's location through GPS, as well as the fact that complainant's phone was switched off. As a result, the police had located the alleged truck in Sampla, Haryana. Thereafter, statement of the complainant was recorded and said FIR was registered.

3. Learned counsel for the petitioners stated that the parties have compromised the dispute with the intervention of family members of both the parties and therefore, this Court may quash the FIR.

4. However, this Court was not inclined to quash the FIR on the basis of a compromise, considering that the allegations levelled in the case are serious in nature and it was not a fit case for quashing of FIR on the basis of compromise.

5. Learned counsel for the petitioner thereafter insisted that the matter be heard on merits and to be decided, therefore, this Court has heard arguments on merit, at length. It is stated that present case is a fit case for quashing of FIR since, the case has been registered due to some misunderstanding between the parties and that later on the parties realized that a misunderstanding had taken place between them. The

mobile phone and money of the complainant has been returned to the complainant by the accused persons. It is also submitted that petitioner no.1 is young boy of 25 years and is a student. Hence, the FIR be quashed. It is vehemently stated that no useful purpose will be served by proceeding further trial of this case and, therefore, it is a fit case for quashing.

6. Learned APP for the State, on the other hand, states that the allegations levelled in this case are serious in nature and such cases cannot be quashed on the basis of compromise.

7. I have heard arguments on behalf of both the parties and have perused the material on record.

8. As petitioners herein have approached this Court seeking quashing of the FIR that has been registered against them, it is pertinent to initially refer to and contemplate the principles that govern quashing of FIRs.

9. In ***State of Haryana and Ors. v. Ch. Bhajan Lal and Ors.*** 1992 SCC (Cri) 426, Hon'ble Apex Court had culled down principles to be considered while quashing FIRs, the same is reproduced as under:

"102. 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 extra-ordinary 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 non-cognizable 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 FIR 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."

10. It is to be noted that recently Hon'ble Supreme Court in ***Neeharika Infrastructure v. State of Maharashtra*** 2021 SCC OnLine 315, has analysed the precedents and culled out the relevant principles that govern the law on quashing of a FIR under Section 482 of the Cr.P.C. The Court has held as under:

"57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- 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 cognizable offences;*
- ii) Courts would not thwart any investigation into the cognizable offences;*
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*
- iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);*
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the*

reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. 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. During or 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;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;
xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and
xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

11. The Hon'ble Apex Court in **CBI v. Aryan Singh** 2023 SCC OnLine SC 379 held that while exercising the powers under Section 482 Cr.P.C., the Courts have a very limited jurisdiction and are only required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not".

12. In **Bhajan Lal and Neeharika Infrastructure** (supra), Hon'ble Supreme Court has advised that while High Courts have the authority to intervene in cases related to serious offenses to prevent misuse of the legal process or to uphold justice, this power should only be exercised in exceptional circumstances and very cautiously.

13. In the present case when tested in light of the principles laid down in the said judgment of the Hon'ble Apex Court, this Court finds that as discussed above, allegations levelled against petitioners

are serious and statement of the complainant and other witnesses are on record. The police has investigated the case and has also filed the chargesheet qua petitioner no. 2. A perusal of the record reveals that there are specific allegations against the accused that on 10.08.2019, on the date of incident, a PCR call was received at the police station that near Punjabi Bagh Chowk, one truck had touched the car of the accused persons and thereafter, the accused persons had taken the mobile phone of the complainant and were demanding Rs.20,000/- from his family. Upon inquiry, it transpired that brother of the caller i.e. Khurshid was driving the truck which was coming from Mundka, Delhi and was going towards Alwar, Rajasthan. When the complainant had reached near Punjabi Bagh chowk, some unknown persons had stopped the truck and were taking it to an unknown place since, complainant had failed to pay them the money. Since, GPS was installed in the truck, location of the truck was taken and accordingly, Haryana police was informed by Delhi police *via* telephone and the truck and Bolero jeep were recovered from near Sampla, Haryana. Statement of the driver was recorded, who informed the police that the accused had demanded Rs.20,000/- from him and when he had refused to give money, the persons in the car had snatched his mobile phone and documents of the truck from him and had taken the truck driver along with the truck to Sampla, Haryana.

14. Therefore, there is nothing on record which makes the allegations improbable. The mobile phone of the complainant was also recovered from one of the accused persons. The electronic

record also supports the prosecution case and therefore, there is nothing on record to support the claim of the petitioners that the present complaint was lodged on the basis of any misunderstanding.

15. Considering the same, this Court does not find it a fit case for quashing of the FIR, the allegations being serious in nature and also considering that it is a case of road rage. It is one of those cases where the car of the complainant was alleged to have been hit by the truck and instead of calling the police, they resorted to snatching complainant's mobile phone and had demanded Rs.20,000/- from him and they did not even stop at that but started taking him to an unknown place which points out to the gravity of the offence.

16. In view thereof, the present petition stands dismissed.

17. Nothing expressed herein will tantamount to any expression on merit of the case during trial.

18. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 15, 2023/ns