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

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Reserved on: 20.11.2023
Pronounced on: 24.11.2023

+ **CRL.M.C. 2520/2023 & CRL.M.A. 9584/2023**

VISHESH AGGARWAL & ORS. Petitioners

Through: Mr. Arun Sharma, Advocate.

versus

STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Hitesh Vali, APP for the
State with SI Harsh Kumar,
P.S. Nabi Karim.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the petitioners seeking quashing of FIR No. 384/2021 registered at Police Station Nabi Karim, Delhi, for the offences punishable under Sections 323/341/384/506/34 of Indian Penal Code, 1860 ('IPC').

2. Briefly stated, facts of the present case are that the present FIR was registered on the complaint of the complainant Daulatram who had alleged that accused persons Laxmi Narayan, Chakresh, Gaurav



Aggarwal, and present accused/applicant Vishesh, with his 5-6 unknown associates had physically assaulted the employee of the complainant, namely Sukhwinder on 19.10.2020, with the motive of extorting a sum of Rs. 5 lakhs from the complainant. It was further alleged that the accused persons had extended further threats to extort an amount of Rs. 25 lakhs from the complainant. It was alleged that the accused persons had been extending life threats and threats to falsely implicate the complainant and his family members in false cases. It was alleged by the complainant that he was the owner of the property bearing No. 7803 to 7812 to 7842 to 7849, Rattan Lal Building, Ram Nagar, Arakashan Road, Paharganj, Delhi and he had numerous occupiers/tenants, including the present accused/applicant. It was further stated, that the said building had been declared dangerous and in a dilapidated state by North Delhi Municipal Corporation, due to which the complainant had issued notices of eviction to each and every occupier of the building, including the present accused/applicant. Legal proceedings for eviction against Laxmi Narayan were pending in the District Courts of Delhi at Tis Hazari Courts, and in the meanwhile complainant had opted to settle the matter with the present accused/applicant Laxmi Narayan, *vide* settlement agreement dated 03.10.2019, whereby a sum of Rs. 5 Lakhs was paid to him. However, instead of honoring his commitment by vacating the premises after taking money, present accused/applicant had started extending threats to the complainant. Thereafter, the complainant had lodged a complaint dated 17.09.2020 vide DD No. 40-A at P.S. Nabi Karim, Delhi. It has been



alleged by the complainant that on 19.10.2020, the accused persons had physically assaulted the complainant and his employee Sukhwinder Singh. It has been alleged that accused persons Chakresh and Gaurav Aggarwal, were armed with sharp-edged weapons, and present applicant/accused Laxmi Narayan and his son Vishesh had *rods* in their hands and they had committed the offence with the same. The complainant had made a PCR call on 19.10.2020 at around 9:08 pm, and the entire incident was narrated to the police officials; however, no legal action was taken by the police. Thereafter, the present FIR was registered on the complaint of the complainant on 01.11.2021.

3. Learned counsel for the petitioner states that a compromise has been entered into between the parties at the very initial stage of 'the investigation i.e., before filing of the charge sheet and the complainant is not interested to continue with criminal proceedings against the petitioners/accused persons. It is argued that the petitioners and the respondent no. 2 have entered into a compromise and sorted all their disputes in a cordial manner in order to maintain peace and harmony in the society. It is stated that no useful purpose would be served in case the FIR is kept pending and it will amount to abuse of the process of law. Moreover, the same would result in the wastage of the precious time of the judiciary.

4. Learned APP for the State argues that the allegations against the accused persons are serious in nature. It is argued that in the present case the accused/applicant had physically assaulted the complainant and had extorted money from him by threatening him



and his family. It is stated that the present case is of such nature which at this stage when the investigation is underway cannot be quashed based on settlement arrived at between the parties.

5. This Court has heard arguments addressed by learned counsel for the applicant and learned APP for the State and has perused material on record.

6. It was contended by the learned counsel for the applicant that since the dispute has been amicably settled between the petitioner and respondent no. 2, the present FIR registered under Sections 323/341/384/506/34 of IPC can be quashed.

7. However, having examined the facts of the case, this Court is of the opinion that the allegations leveled in the FIR are serious in nature i.e. *inter alia* for commission of offence under Section 384 of IPC which deals with offence of extortion. In a nutshell, the complainant herein had alleged that the present applicant/accused along with co-accused persons had assaulted the complainant and his employee for extorting an amount of Rs. 5 lakhs from the complainant and had used iron rods etc. for causing physical assault. It was also alleged that the present applicant/accused had tried to extort an additional amount of Rs. 25 lakhs from the complainant by threatening to assault and file false criminal cases against the complainant and his family members. In this Court's opinion, such allegations cannot be treated as mere private dispute between two parties and the same, if found true during the course of investigation or trial, are to be considered as an offence against the society at



large. Therefore, such FIRs cannot be quashed merely based on settlement agreements being arrived at between two parties.

8. In light of the above-mentioned facts and circumstances, this Court also deems it appropriate to analyze the present case on merits for the purpose of quashing of the FIR. The law regarding quashing of FIR on merits is well settled by the Hon'ble Supreme Court in catena of judgments.

9. The Hon'ble Supreme Court has laid the guidelines for quashing the FIR in the *State of Haryana and Ors. v. Ch. Bhajan Lal and Ors.* 1992 SCC (Cri) 426, which reads 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."

(Emphasis supplied)

10. It is to be noted that in case of ***Bhajan Lal (Supra)***, the Hon'ble Supreme Court has cautioned that High Court, in exercise of powers under Article 226 of Constitution of India or Section 482 Cr.P.C may interfere in proceedings relating to cognizable offences to prevent abuse of the process of any court or otherwise to secure the ends of justice, but such power should be exercised sparingly and that too in the rarest of rare cases.

11. Considering the facts and circumstances of the present case, this Court finds that the present case is not covered under the principles laid down in the case of ***Bhajan Lal (Supra)***, as the case in



hand does not fall within the criteria mentioned in the said case. Bare perusal of the FIR makes it clear that there are serious allegations of extortion of money by the present accused/applicant who had assaulted the complainant and his employee, and had further threatened to initiate false criminal cases against the complainant and his family members in case his demand for payment of money is not met. The allegations leveled in the FIR are sufficient for the police to further investigate the matter against the accused. This Court is also of the view that by applying principles laid down in the case of **Bhajan Lal (Supra)**, the present FIR cannot be quashed as investigation is still to be conducted and chargesheet is yet to be filed. It is the duty of the police/investigating officer to enquire and investigate into the serious allegations made in the FIR and to find out the truth.

12. The Hon'ble Supreme Court in the case of **Rakhi Mishra V. State of Bihar and Others (2017) 16 SCC 772** has held that the High Courts can use its power under Section 482 of Cr.P.C. only in exceptional circumstances when a *prima facie* case is not made out against the accused.

13. In the case of **Sanapareddy Maheedhar Seshagiri v. State of A.P. (2007) 13 SCC 165**, it has been observed by the Apex Court as under:

"31. A careful reading of the above noted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that FIR does not disclose commission of any offence or that the



allegations contained in FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing FIR or complaint or restraining the competent authority from investigating the allegations contained in FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in FIR or complaint disclose commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power under Section 482 CrPC."

(Emphasis Supplied)

14. The Hon'ble Supreme Court in its recent decision of *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 First Information Report 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."

(Emphasis Supplied)

15. Even considering the relevant principles governing quashing of FIR laid down in *Neeharika Infrastructure (supra)*, this Court is of the view that police must be permitted to complete the investigation unless on the face of it the allegations seem to be inherently absurd or improbable. It would be premature to pronounce the conclusion based on un-investigated facts that the complaint/FIR



does not deserve to be investigated and that it amounts to abuse of process of law. Needless to say, during or after investigation, if it is found that there is no substance in the complaint made by the complainant, the investigating officer may file an appropriate report before the learned Magistrate which may be considered by the learned Magistrate in accordance with the law.

16. Considering the overall facts and circumstances of the case and the allegations and material available on record, this Court finds no reason to quash the FIR bearing No. 384/2021 at the present stage of investigation. It is, however, not clear as to why the investigation is still not concluded and chargesheet is not filed till date in the present case though the FIR was registered in the year 2021.

17. Accordingly, the present petition along with pending application stands dismissed.

18. It is, however, clarified that the observations made hereinabove are *prima facie* in nature, solely for the purpose of deciding present petition, and the same shall not tantamount to an expression of opinion on the merits of the case.

19. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

NOVEMBER 24, 2023/kd