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

% **Decided on:13.09.2023**

+ **CRL.M.C. 5768/2023**

VIPIN & ORS.

..... Petitioners

Through: Mr. Rahul Raheja, Advocate with
petitioners-in-person

versus

STATE NCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Satish Kumar, APP for State with
SI Mithilesh Kumar, PS Civil Lines.
Mr. Anil Saharan, Advocate for R-2
alongwith R-2

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.(ORAL)

CRL.M.A. 21699/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 5768/2023

3. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of petitioners seeking quashing of e-FIR bearing no. 000426/2020 dated 31.10.2020 registered at Police Station Civil Lines for offence punishable under Sections 392/394/397/411/34 of Indian Penal Code, 1860 ('IPC') and Section



25/54/59 Arms Act, 1959.

4. Issue notice. Mr. Satish Kumar, learned APP accepts notice on behalf of the State.

5. The FIR in the present case was lodged on the complaint of the complainant himself who had alleged that on 30.10.2020 at about 9:15 PM, when he was going home to Mukundpur from Gandhi Nagar where he works in a shop and had reached ISBT, Bus Depot near Hanuman Mandir and had boarded a TSR in which two persons were already sitting. When the TSR had reached Burari bypass flyover, one of the persons sitting in the TSR had caught hold of his neck and had also put a knife on the side of his waist. The TSR driver had stopped the TSR, had caught hold of his legs and the third one had taken out his mobile phone, Rs.7000/- and ATM card from his pocket, after beating him. Thereafter, they had pushed him on the road and had fled away from the spot. The complainant had chased him with the help of a person on a motorcycle and they were able to note down the registration number of the TSR. The accused persons were arrested who disclosed that the mobile phone belonging to the complainant was sold, Rs.2000/- out of Rs.7000/-, were spent by the accused persons and the mobile phone was sold for Rs.1000/- to some other person. The person to whom the phone was sold informed the police that after coming to know about registration of the FIR, he had returned the phone to accused Ajay. Accused Vipin and Nitin also refused to take part in the Test Identification Parade.

6. Learned counsel for the petitioner has stated that the matter has been settled between the parties and the accused is ready to compensate the complainant. He states that the complainant is present in person and he has



no objection, if the FIR is quashed.

7. This Court has gone through the statements of the complainant himself, the FIR and the other documents filed on record.

8. The allegations are serious in nature where robbery has been committed by the accused persons when the complainant was going home from his work place. It is also taken note by this Court that quashing on the basis of compromise cannot be asked for as a matter of right, in case the complainant appears before a Court in a petition under Section 482 of Cr.P.C. seeking quashing of FIR but has to be quashed on the basis of the guidelines and the principles laid down under law and relevant judicial precedents.

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

"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. The 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 FIRs 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. In this Court's opinion, the nature of the offence is heinous and allegations are of such nature that the offence is against the society and security of the citizens at large. The FIRs pertaining to such offences cannot be quashed only because the accused persons are ready to compensate the complainant after committing robbery on point and threat of a weapon.

12. Considering the same that the offence of robbery was committed by the accused persons, no ground for quashing of FIR is made out. Accordingly, the present petition stands rejected.

13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 13, 2023/ns

Click here to check corrigendum, if any