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accused/petitioner. It is further alleged that on 15.11.2019, the petitioner made a plan to grab the amount of their plot and to murder her *jeth* and with the connivance of other people attacked upon him and thus, the instant FIR got registered.

3. Learned counsel for the petitioner *inter alia* contends that perusal of FIR (*supra*) clearly indicates that it is an abuse of the process of law. The petitioner has been entangled in this case only for the reason that in the civil dispute pending with the husband of the prosecutrix on the basis of one agreement to sell dated 08.11.2019, he is one of the attesting witnesses. The purchaser of the plot namely, Joginder Singh, has already filed a suit for specific performance against the husband of the prosecutrix as the petitioner was one of the witnesses to the said agreement and only to pressurize him for not deposing in the civil suit, the present FIR was registered. The prosecutrix is 45 years of age and petitioner is 58 years of age and the material available on record clearly indicates that petitioner suffers from such disease that he is not capable of performing any sexual activity as discernible from the medical record (Annexures P-4 to 6) and the aforementioned medical record is prior to the registration of the FIR and there is a delay of seven months of the alleged occurrence which clearly dents the case set up by the prosecution.

4. Per contra, the learned State counsel assisted by learned counsel for the complainant submits that all the contentions made by learned counsel for the petitioner can be adjudicated by the learned trial Court on the basis of the evidence produced before it. The probable defence set up by the petitioner in the present petition cannot be looked into. It is a matter of trial whether the petitioner has been falsely implicated or not and the trial is at the advanced



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stage as the trial is progressing and the charges have already been framed. Even the prosecutrix has been partly examined. She further relies upon the status report and submits that out of 21 witnesses cited in the final report, 06 witnesses have already been examined and one witness has given up.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court does not find it proper to adjudicate upon disputed questions of fact while the matter is pending consideration before the learned Court below. The matter requires to be adjudicated by the learned trial Court on the basis of the evidence adduced by the parties and the probable defence as set up by the petitioner cannot be gone into at this stage.

6. A two Judge bench of the Hon'ble Supreme Court in ***HMT Watches Limited vs. M.A. Abida (2015) 11 SCC 776*** has held that inherent powers under Section 482 of the Cr.P.C. cannot be extended to determining question of facts. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law.

7. A two Judge bench of the Hon'ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT) 2022 SCC Online SC 513***, speaking through Justice Hrishikesh Roy, observed as under:

“17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the

complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”

8. Furthermore, in *Sampelly Satyanarayana Rao vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458*, a two Judge bench of the Hon’ble Supreme Court, speaking through Justice Adarsh Kumar Goel, made the following observations:

“17. As is clear from the above observations of this Court, it is well settled that while dealing with a quashing petition, the Court has ordinarily to proceed on the basis of averments in the complaint. The defence of the accused cannot be considered at this stage. The court considering the prayer for quashing does not adjudicate upon a disputed question of fact.”

9. Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

10. However, nothing observed herein shall be construed as expression of an opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

29.08.2024
Neha

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