

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.3755 of 2023
Date of decision: 06.03.2024

Charanjit Kaur and another ... Petitioners

Vs.

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sunny K.Singla, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioners under Section 482 of Cr.P.C. seeking quashing of FIR No.19 registered under Sections 323, 452, 354, 294, 506 and 34 of IPC at Police Station Sadar Raikot, District Ludhiana Rural and the proceedings having emanated subsequently therefrom.

2. As per the allegations, the abovesaid FIR had been registered on the basis of statement recorded by the respondent No.2-complainant on 04.03.2022 alleging therein that on the same day, she had gone to her property wherein her family used to tie cattle and was there only at about 11:10 AM when the petitioner No.2-Palwinder Singh along with his sons Harshpreet Singh @ Hasu and Amritpal Singh suddenly entered therein.

He was carrying a soti (stick) and while proclaiming that the complainant

Neutral Citation No.2024:PHHC:033873

should be taught a lesson for registering a case against them and she should not be left, opened an assault upon her. His son caught hold of her hairs, she was dragged and was extended beatings. The petitioner No.2 also inflicted injuries on her person by striking blows with the soti he was carrying. His son Harshpreet Singh tore of her shirt. While she was trying to rescue herself, then the petitioner No.1 also reached there and by falling her on the ground, all of them gave kicks to her and again extended beatings. The rescue alarm raised by her attracted her son on the spot who rescued her from the clutches of the petitioners and their family members. She also alleged that information was given by her to the police by helpline No.112 and then she was taken to hospital for treatment. The cause of grudge of the petitioners and co-accused as given by the complainant was that previously they had kidnapped her son Ravinder Singh and a case was got registered by her family in that regard. After registration of FIR, investigation proceedings were initiated. After completion of necessary investigation and usual formalities, challan has been presented before the Court of learned trial Magistrate and presently, the petitioners are facing trial for commission of aforementioned offences along with the co-accused.

3. The present petition has been filed by the petitioners on the grounds and it is argued by their counsel that they have been falsely implicated in this case. Infact, as on 04.03.2022 at about 11:45 AM they were present at Global Travels, Ahmedgarh, District Malerkotla for the purpose of their passport work. At about 12:33 PM, they had gone to

Neutral Citation No.2024:PHHC:033873

Mahavir Kiryana Store Ahemdgarh and their presence was recorded in the CCTV footage installed in above mentioned places. It is submitted that this fact itself shows that they have been falsely implicated in this case and, therefore, the FIR against them has become liable to be quashed. Accordingly, it is argued by learned counsel for the petitioners that the petition deserves to be allowed.

4. Learned State counsel who has advance notice of the petition has argued, on the other hand, that investigating agency had conducted thorough investigation in the matter and had thereafter presented the challan as against the present petitioners and the co-accused. There are specific allegations against them. Charges have already been framed against them and now the case before the trial Court is fixed for the purpose of recording prosecution evidence. It is, therefore, argued that no case for quashing of FIR and other consequential proceedings arising therefrom has been made out.

5. Learned counsel for the petitioner as well as learned State counsel were heard at considerable length.

6. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and

Neutral Citation No.2024:PHHC:033873

to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as **State of Haryana vs. Bhajan Lal**, 1992 SUPP (1) SCC 335, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

“(a) 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;

xxx xxx xxx xxx

(c) 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;

xxx xxx xxx xxx

(e) where the allegations made in the FIR or complaint

Neutral Citation No.2024:PHHC:033873

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;

xxx xxx xxx xxx

(g) 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.

7. Reference can further be made to **Gian Singh vs. State of Punjab**, (2012) 10 SCC 303, wherein Hon'ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can also be made to **Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy and others**, (2011) 12 SCC 437, wherein it was observed that the inherent power under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the

Neutral Citation No.2024:PHHC:033873

statute. Reliance can further be placed upon **State of Andhra Pradesh vs. Gourishetty Mahesh and others**, 2010 Criminal Law Journal 3844, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

8. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and not a rule. In **Dr. Monica Kumar and another vs. State of U.P. and others**, (2008) 8 SCC 781, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to whims and caprice. In **Taramani Parakh vs. State of M.P. and others**, 2015 (2) RCR (Criminal) 445, Hon'ble Supreme Court has held that Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but on

Neutral Citation No.2024:PHHC:033873

an opinion formed prima facie. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied, if there is substantial compliance with the requirements of the offence.

9. It is well settled that the Court cannot take into consideration external material given by an accused for reaching the conclusion that no offence was disclosed and there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents on records. While considering the question of quashing of FIR, the Court has to observe that it cannot examine the facts, evidence and material on record to determine whether there is sufficient material on the basis of which, the case would end in a conviction; the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of process of Court leading to injustice. No meticulous examination of evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge. In the instant case, as discussed above, the charges against the petitioners have already

Neutral Citation No.2024:PHHC:033873

been framed and trial against them has commenced. They want to produce material before this Court in the form of recording taken from some CCTV footage to prove their alibi. In the instant case, the charge-sheet has been filed as against the petitioners after recording statements of witnesses collected evidence and after conclusion of investigation. As such, the matter stands on a different footing and the Court is required to consider the material/evidence collected through investigation. This Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting trial. The well settled proposition of law is also that if in order to examine as to whether the factual contents of a FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate Court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, required any proof. In my considered opinion, at this stage, this Court cannot appreciate the evidence as to whether it can draw its own inference from the contents of the FIR and the material relied on it. The appreciation of evidence is not permissible at this stage. The inherent jurisdiction under Section 482 of Cr.P.C. is to be exercised sparingly, carefully and with caution only when such exercise is justified by the tests specifically laid down by the section itself. Keeping in view the discussion as made out, I find that no ground whatsoever to interfere at this stage for quashing of FIR as well as consequent proceedings emanating therefrom, is made out. Accordingly,

the petition is dismissed.

06.03.2024

manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No