

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

124

CRM-M-11109-2024(O&M)
Date of order: 05.03.2024

Pawan Kumar Gupta

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashutosh Gupta, Advocate
for the petitioner.

Mr. R.S. Aarya, Addl. AG Haryana.

Mr. Naman Jain, Advocate
for respondent No.2.

Nidhi Gupta, J.

Present petition under Section 482 Cr.P.C. is filed seeking quashing on merits of FIR No.237 dated 21.10.2022 registered under Sections 354-D, 506, 509 and 34 IPC at Police Station Women, NIT Faridabad (Annexure P1); and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner inter alia submits that the present FIR was registered on the basis of statement made by respondent No.2/complainant. Petitioner is working as Principal of Institute of Hotel Management, Catering Technology and Applied Nutrition, Yamuna Nagar (hereinafter referred to as “the Institute”) since February, 2012. Respondent No.2 was working as a Senior Lecturer and has been given the additional charge of Principal of the Institute of Hotel Management,

Catering Technology and Applied Nutrition, Faridabad, with effect from 29.07.2022.

3. It is submitted that the present FIR emanates from a professional dispute between the parties. Respondent No.2 was handed over the charge as Principal after the extension of services, as given to the previous Principal, namely Mr. Atul Shukla, was stayed by a Co-ordinate Bench of this Court vide order dated 21.07.2022 (Annexure P2) passed in CWP No.7805 of 2022 filed by the petitioner. It is submitted that the complainant was miffed by this, as in actual fact, she was in an illicit relationship with the said former Principal, Mr. Atul Shukla. Moreover, their illicit relationship was discovered by the petitioner and the main accused in the present FIR namely Rahul Raj. Their illicit relationship is evident from an audio-video recording dated 11/12.07.2022, of the Principal's office which was produced by the main accused Rahul Raj through RTI; and thereafter action was demanded against the complainant. It is submitted that it is in this background that the present FIR has come to be registered. It is stated that the FIR has been registered merely with the motive to harass the petitioner and other accused.

4. It is further submitted that no specific allegation has been made against the petitioner in the FIR and no role has been attributed to him. Petitioner has been embroiled in the present case only because he had supported the main accused Rahul Raj. It is prayed that accordingly, the present FIR be quashed qua the petitioner.

5. No other argument is made on behalf of the petitioner.

6. I have heard learned counsel for the petitioner and perused the case file in detail.

7. Perusal of record of the case shows that total 9 accused/persons were named in the present FIR including the petitioner. The petitioner has been specifically named in the FIR. Moreover, upon investigation, report under Section 173 Cr.P.C. dated 22.04.2023 (Annexure P3) has been filed, which shows that during investigation, Assistant Lecturer Sanjiv Saini had joined the investigation and, in his statement, had specifically stated that Rahul Raj and the petitioner had told bad words regarding respondent No.2; and had presented video clip to tarnish her image. Said Sanjiv Saini has further stated that the accused had published news item, and had also spread on social media accounts like Facebook and Instagram, linking the name of respondent No.2 with earlier Principal Mr. Atul Shukla; and had also spread the rumour about rape and printed that students' life was in danger. Thus, specific allegations and specific role has been attributed to the petitioner in report under Section 173 Cr.P.C. dated 22.04.2023. It is also mentioned in the report that the petitioner is supporting the main accused namely Rahul Raj.

8. Needless to say, the veracity of the allegations made against the petitioner is to be determined by the learned trial Court upon leading of evidence. It is not for this Court to ascertain the same at the present preliminary juncture. Moreover, it is open to the petitioner to take all these pleas before the learned trial Court. Even charges are yet to be framed in the matter and the next date of hearing before the learned trial court is 20.04.2024.

9. I am supported in my above view by a 3-Judge Bench decision of the Hon'ble Supreme Court in case titled as **"M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra & Others"** Law Finder Doc ID # 1830709, wherein the Hon'ble Apex Court has held as follows:-

*"10. 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., 1973 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., 1973

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., 1973 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., 1973 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)

10. In view of the above undisputed pronouncement of law, I find no merit in the present petition, and the same is accordingly, **dismissed.**

11. Pending application(s) if any also stand(s) disposed of.

12. However, nothing stated above shall be construed as an expression of opinion on the merits of the matter.

05.03.2024

Sunena

(Nidhi Gupta)

Judge

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