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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19361-2018 (O&M)
Date of decision: 23.07.2024

Sudhir Bhatia

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhishek Jindal, Advocate (legal aid counsel)
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Sanchit Punia, Advocate for respondents No.2 & 3.

HARPREET SINGH BRAR, J.(ORAL)

1. Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) seeking quashing of FIR No.734 dated 20.09.2017 under Sections 323, 354-A, 354-B, 354-D, 506 of the Indian Penal Code, 1860 (for short ‘IPC’), registered at Police Station Civil Lines, Hisar.
2. The facts, in brief, are that the concerned police received an information on 20.09.2007 regarding admission of respondent No.3-Nitin in

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General Hospital, Hisar on account of injuries. Subsequently, the police officials went to the aforesaid hospital and met respondent No.2-Renu, who is wife of respondent No.3 and she submitted her MLR along with her statement, wherein it was alleged that the petitioner had visited their dance academy 03 months prior to the alleged incident on account of some work related to the property and saw her with bad intention. Thereafter, the petitioner kept a malicious eye on her and also followed her around twice. Then on 19.09.2017, when respondent No.2 went outside her dance academy to receive a phone call, the petitioner caught her and pressed her breast. When she screamed, the petitioner hit her in the abdomen. Before respondent No.3 could come outside to help her, the petitioner held her from the neck and also tore her clothes. Somehow, respondent No.3 rescued respondent No.2 from the clutches of the petitioner, but he took out a rod from his car and hit respondent No.3-Nitin Chawla 2-3 times. When passersby started gathering, the petitioner fled away, while threatening to kill them. On the basis of aforesaid statement, FIR (*supra*) came to be registered.

3. Learned counsel for the petitioner, *inter alia*, contends that it is a case of version and cross-version, as the petitioner also lodged an FIR No.735 dated 20.09.2017 under Sections 323, 34 & 506 of IPC at Police Station Civil Lines, Hisar (Annexure P-2) against respondent No.2 & 3. He further submits that the private respondents maliciously turned a civil dispute relating to



money transaction into a criminal one in order to pressurize the petitioner. The monetary dispute was amicably resolved by way of a settlement deed dated 27.07.2017 (Annexure P-3). It is further contended that the petitioner also received injuries at the hands of the private respondents, which can be clearly seen in the CCTV footage (Annexure P-4). He further submits that respondent No.3 refused to come present before the doctor and take doctor's opinion (Annexure P-5). Further, the medical report (Annexure P-6) shows that no abnormality was detected on the abdomen of respondent No.2 despite her allegations qua the same. He also contends that the petitioner had moved an application dated 31.07.2017 (Annexure P-7) before the concerned police authorities almost two months prior to the alleged incident, wherein he had mentioned that the private respondents were planning to indulge him in a false case.

4. After giving due consideration to the arguments raised by learned counsel for the petitioner and perusing the material on record, this Court is of the opinion that the pleas taken by him are disputed questions of fact and are not to be delved into by this Court, at this stage. It is settled law that disputed questions of fact can only be adjudicated after the parties have duly adduced their evidence. The High Court, in exercise of its inherent powers under Section 482 Cr.P.C is obliged to make a just and equitable choice and cannot go beyond its ambit to evaluate the truthfulness of the allegations or the



veracity of the defence, however, convincing it might seem. Any such attempt would be impermissible in law as it would amount to giving finality to the accusations even before the prosecution is allowed to adduce evidence to substantiate the same.

5. Pertinently, 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 Cr.P.C. cannot be extended to determining question of facts. It is only for learned 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.

6. Similarly, 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 unmerited 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.”



7. A three-Judge Bench of the Hon'ble Supreme in ***Priyanka Jaiswal Vs. The State of Jharkhand and Others, 2024 All SCR(Crl.) 1064***, speaking through Justice Aravind Kumar, made the following observations: -

“13. We say so for reasons more than one. This Court in catena of Judgments has consistently held that at the time of examining the prayer for quashing of the criminal proceedings, the court exercising extra- ordinary jurisdiction can neither undertake to conduct a mini trial nor enter into appreciation of evidence of a particular case. The correctness or otherwise of the allegations made in the complaint cannot be examined on the touchstone of the probable defence that the accused may raise to stave off the prosecution and any such misadventure by the Courts resulting in proceedings being quashed would be set aside. This Court in the case of Akhil Sharda 2022 SCC Online SC 820 held to the following effect:

28. Having gone through the impugned judgment and order passed by the High Court by which the High Court has set aside the criminal proceedings in exercise of powers under Section 482 Cr.P.C., 1973 it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482 Cr.P.C., 1973 As observed and held by this Court in a catena of decisions no mini trial can be conducted by the High Court in exercise of powers under Section 482 Cr.P.C., 1973 jurisdiction and at the stage of deciding the application under Section 482 Cr.P.C., 1973 the High Court cannot get into appreciation of evidence of the particular case being considered”

8. Since, the questions raised before this Court by way of filing the present petition are required to be adjudicated by learned trial Court on the basis of evidence adduced by the parties. The probable defence as set up by the

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petitioner cannot be gone into at this stage.

9. In view of the aforesaid discussion, present petition is hereby dismissed.

10. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

23.07.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No