

2024:PHHC:094731

227 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-3840-2017
DECIDED ON: 01.03.2024

TEJBIR JAGLAN & ANR.PETITIONERS

VERSUS

STATE OF HARYANARESPONDENT

2. CRM-M-32902-2017

ISHWAR GARGPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

3. CRM-M-36534-2022

INDER SINGHPETITIONER

VERSUS

STATE OF HARYANARESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankur Malik, Advocate and
Mr. Zeinth Dogra, Advocate
for the petitioners (in CRM-M-3840-2017).

Mr. Sukhdeep Singh, Advocate
for the petitioner (in CRM-M-32902-2017).

Mr. P. S. Ahluwalia, Advocate
for the petitioner (in CRM-M-36534-2022).

Mr. Gurbir Singh Dhillon, AAG, Haryana.

Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Sidharth Chawla, Advocate
for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. for quashing of FIR No.913 (Annexure P-8), dated 16.11.2015 under Sections 147, 149, 323, 452, 506, 427, 448, 511, 395, 397, 120-B IPC read with Section 25/54/59 of Arms Act, registered at Police Station Model Town Panipat, District Panipat and to quash all consequential proceedings arising out of the above mentioned FIR.

2. The question for adjudication arises on the ground of false implication of the petitioner alleging registration of FIR due to party faction would tantamount to abuse of process of law to quash the FIR in question.

3. The factual matrix involved in the petition in hand can be summarized as narrated in the FIR No.913, dated 16.11.2015, registered at Police Station Model Town Panipat, District Panipat, wherein the complainant Prem Lata Kapoor has alleged as under:-

1. Tejbir Jaglan 2. Sonu Jaglan and 20-25 other persons. Sir, it is requested that I Prem Lata Kapoor widow of Harbans Lal Kapoor, resident of House No. 286-R, Model Town Panipat. I am residing in this House for past 65 years. One Niranjana Dass son of Brij Lal use to tell House No. 286-1 his plot. Regarding which Harbans Lal filed a civil case against my husband in year 1971 in the Court at Panipat. And the same was dismissed in the year 1978. Niranjana Dass also filed an appeal and the appeal was also dismissed. Today, dated 16.11.2015 at about 3:00 O'clock in afternoon. I was alone in my house then Tejbir Jaglan, Sonu Jaglan and twenty-twenty five persons forcibly entered in my house and on my asking they pushed me and started beating me and started picking up my belongings and started throwing them out of my house. All the cash

and ornaments belonging to me missing and my other belongings have broken due to which I suffered huge loss all CCTV camera installed in my house were also broken. Tejbir Jaglan and Sonu Jaglan also brought one JCB machine, one Trally of bricks, water tanker and labours etc. for illegally taking possession of my house. On my crying neighbors gathered and saved me. Tejbir Jaglan and Sonu Jaglan alongwith other persons threatening me that they will kill me and went out of my house. And also said that today night we will take possession of your house. My son in law Harish took me Govt. Hospital for treatment. Proper action be taken against Tejbir Jaglan, Sonu Jaglan and other persons accompanying them. Copy of M.L.R. is also enclosed. Thank You. Applicant: Prem Lata Kapoor 286-R, Model Town Panipat. 9896115898. Police proceeding: Today dated 16.10.2015 I ASI and Head Constable 133 were present at Stadium Chowk, Model Town Panipat when applicant Prem Lata Kapoor Kapoor wd/o Harbans Lal Kapoor, resident of House No. 286-R, Model Town Panipat gave us a written application alongwith MLR No. 56-L 201 5 PNP dated 16.11.2015 in the MLR Dr. has verified one KUO Blunt and advised X- ray. From the above mentioned it is found offence under Sections 147/ 149/ 323/ 452/ 427/ 506/ 448/ 511 IPC is found to be committed hence information is being sent to police station by Head Constable Malik Raj for registration of FIR".

4. It has been argued on behalf of the petitioners that petitioner No.2 purchased the plot i.e. H.No.286-L situated in Model Town Panipat on 22.04.2014 i.e. an adjoining plot to the plot of the complainant namely Prem Lata Kapoor, who is trying to usurp the plot purchased by the petitioner No.2.

5. The petitioner No.2 moved an application for demarcation of land and appointment of Local Commissioner alleging that complainant Prem Lata

Kapoor being owner of H.No.286-R, Model Town Panipat, is using the influence of MLA of the area from the ruling party who also supported in registration of the instant FIR being hand in glove to grab the property of the petitioner No.2 and referred to certain newspaper cuttings attached to the petition at Annexure P-19. It has been vehemently argued as pleaded in the petition as well that one Surender Rewri husband of Rohita Rewri (MLA) is openly supporting the complainant party-respondent No.2 and the FIR having no iota has been lodged merely on a concoction of story to implicate the petitioner despite having not committed any offence and further stresses on the fact that the FIR in question was registered late around 9:38 at night against the alleged occurrence which is took place at 3 O'clock on 16.11.2015.

6. It has been asserted that the petitioners never entered the house of the complainant in any manner whatsoever and against alleged beatings given to the complainant neither any medical report is there on record nor any other incriminating material in the form of recovery of any weapon etc has been shown by the Investigating Agency. It is on these accounts, the quashing of instant FIR has been sought wherein at the preliminary hearing on 07.02.2017, notice of motion was issued considering the claim of the petitioner to the extent of his peaceful possession over the plot No.286-L, purchased by him on 25.04.2014 as per the Sale Deed available on the case file at Annexure P-1.

7. It is contended by Mr. Atul Lakhanpal, learned Senior Advocate on behalf of the complainant and submits that there is CCTV camera installed in the house of complainant-respondent No.2 where from it is abundantly clear that the petitioners have brought one JCB machine, one trolley filled up with the bricks, a water tank and laborers to take over the possession forcefully of

their house. He also controverts the fact qua the non-availability of medical report on account of injuries suffered by the complainant at the hands of petitioners and refers to the version narrated in the FIR wherein it is recorded that copy of MLR is enclosed as complainant-respondent No.2 got treatment in the Government Hospital.

8. Mr. Gurbir Singh Dhillon, AAG, Haryana has argued on the line of written statement dated 09.08.2017 filed by way of an affidavit of Des Raj, HPS, Deputy Superintendent of Police, (Law & Order), Panipat that the petitioners were arrested in the present case on 18.11.2015 and 19.11.2015 respectively and as per orders of Director General of Police, Haryana, investigation was transferred to State Crime Branch, Madhuban.

9. Learned State counsel would indicate that during the course of investigation, it revealed that the petitioners and their co-accused Satish Jindal were well aware about disputed status of plot No.286-L including the knowledge about civil suit and its appeal contested by the previous owner already stands dismissed as well as the fact that seller and the previous owner were never in possession of plot No.286-L, Model Town, Panipat.

10. Be that as it may, as per the contents narrated in the FIR and the contentions raised by learned counsel for the respective parties, it is abundantly clear that the dispute revolves around title of plot bearing No.286-L, Model Town, Panipat and on account of that, petitioners are claiming to have purchased the same vide sale deed dated 22.04.2014 (Annexure P-1), whereas the respondents are disputing the same and also alleging beatings suffered at the hands of petitioners with the support of medico legal report attached at the time of registration of the instant FIR. All these facts and

circumstances are disputed and cannot be adjudicated by this Court while exercising jurisdiction under Section 482 Cr.P.C.

11. Reliance in this regard can be placed upon the judgment rendered by the Apex Court in “**Indian Oil Corporation v. NEPC India Ltd. & ors.**” (2006) 6 SCC 736, wherein it has been held as under:-

"12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few-Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [1988(1) RCR (Criminal) 565 : (1988) 1 SCC 692 : 1988 SCC (Cri) 234], State of Haryana v. Bhajan Lal [1991(1) RCR (Criminal) 383 : 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], Rupan Deol Bajaj v. Kanwar Pal Singh Gill [1995(3) RCR (Criminal) 700 : (1995) 6 SCC 194 : 1995 SCC (Cri) 1059], Central Bureau of Investigation v. Duncans Agro Industries Ltd. [1996(3) RCR (Criminal) 60 : (1996) 5 SCC 591 : 1996 SCC (Cri) 1045], State of Bihar v. Rajendra Agrawalla [1996(1) RCR (Criminal) 530 : (1996) 8 SCC 164 : 1996 SCC (Cri) 628], Rajesh Bajaj v. State NCT of Delhi [1999(2) RCR (Criminal) 160 : (1999) 3 SCC 259 : 1999 SCC (Cri) 401], Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [2000(2) RCR (Criminal) 122 : (2000) 3 SCC 269 : 2000 SCC (Cri) 615], Hridaya Ranjan Prasad Verma v. State of Bihar [2000(2) RCR (Criminal) 484 : (2000) 4 SCC 168 : 2000 SCC (Cri) 786], M. Krishnan v. Vijay Singh [2001(4) RCR (Criminal) 405 : (2001) 8 SCC 645 : 2002 SCC (Cri) 191 and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [2004(4) RCR (Criminal) 937 : (2005) 1 SCC 122 : 2005 SCC (Cri) 283]. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for reaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal

offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not."

12. Further dependence can be made on the Apex Court judgment rendered in the case of ***"Himachal Pradesh Cricket Association and another v. State of Himachal Pradesh and others"*** bearing Criminal Appeal No.1258-1259 of 2018, decided on 02.11.2018, wherein it has been held that the inherent jurisdiction is to be exercised carefully and with caution and only when the exercise is justified by the tests specifically laid down in Section itself. Further inherent power under this provision is not the rule but only an exception and the exception is to be applied only when it is brought to the notice of the Court that grave miscarriage of justice would be committed if the trial is allowed to proceed where the accused would be harassed unnecessarily. If the trial is allowed to linger then *prima facie* it appears to the Court that the trial could likely to be ended in acquittal. It is for this reason, principle laid down by catena of judgments is that the power is to be exercised by the High Court either to prevent abuse of process of any Court or otherwise to secure the ends of justice. However, whenever it is found that the case is coming within the four-corners of the aforesaid parameters, the powers possessed by the High Court under this provision are very wide. It means that the Court has to undertake the exercise with great caution. However, the High Court is not to be inhibited when the circumstances warrant exercise of such power to do

substantial justice to the parties.

13. It is abundantly clear in view of the discussions made hereinabove and keeping in view the parameters/principles for exercising powers under Section 482 Cr.P.C. to quash the FIR, the facts and circumstances do not fall within the fore-corners and hence, this Court is of firm view that no case for interference at this stage is made out. Hence, the petition is dismissed.

14. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition and the parties will be at liberty to take all pleas as well raised in the instant petition before the trial Court at an appropriate stage.

01.03.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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