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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-21963-2024
Date of decision : 03.05.2024

Raghbir Singh @ Shingara Singh and others Petitioners

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. V.K. Yadav, Advocate
for the petitioners.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 482 of the Code seeking quashing of FIR No.19 dated 07.05.2022, registered for the offences punishable under Sections 302 and 34 of IPC (Section 306 added and Section 302 deleted later on) at Police Station Dorangla, District Gurdaspur.
2. Initially, the FIR was registered for offence punishable under Section 302 of Code. However, later on during investigation, the police found that offence punishable under Section 302 was not made out and converted the same under Section 306 as claimed by the petitioners. Reliance is being placed upon Annexure P-10.
3. Counsel for the petitioners has argued that since the Apex Court granted the petitioners pre-arrest bail that shows that no prima facie case is made out and thus it would be case for quashing of the FIR.

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4. In the considered opinion of this Court from the allegations levelled in the FIR, it cannot be held at this stage whether the offence would fall within the ambit of Section 302 or 306. The matter is at a nascent stage where investigation is underway. So far as the inquiry Annexure P-10 dated 10.09.2022 relied upon by the petitioners is concerned, that is still to be tested and analyzed by the trial Court as report under Section 173 of the Code is yet to be filed.

5. In view thereof, this Court does not find that it is a case for quashing of the FIR at this nascent stage, more so when no argument has been raised which would show that the case of the petitioner would fall within the parameters of exercise of jurisdiction for quashing of FIR as laid down by Supreme Court in the case of '**State of Haryana and others vs. Ch. Bhajan Lal and others reported as 1992 SCC (Cri) 426**' wherein Apex Court held as under:-

"107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to

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give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) 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.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a noncognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint 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.

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(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) 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.”

6. Consequently, the present petition is dismissed.

(PANKAJ JAIN)
JUDGE

03.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No