



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

270

CRM-M-26344-2021
Reserved on : 23.04.2024
Pronounced on : 06.08.2024

Narender Petitioner

versus

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rahul Vats, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Vivek Goyal, Advocate for
respondent No.2-complainant.

PANKAJ JAIN, J. (Oral)

1. Petitioner by way of instant petition filed under Section 482 Cr.P.C. seeks quashing of FIR No.45 dated 15.02.2021, registered for offences punishable under Sections 195-A and 120-B of IPC, 1860 (Sections 180, 506 and 34 of IPC, 1860 added later on) at Police Stations Sadar Gohana, District Sonapat.
2. Counsel for the petitioner contends that he has been falsely implicated in the present case. In fact the dispute between the parties relates to family business. Owing to the family business dispute, the complainant got petitioner booked in 06 more FIRs.
3. Counsel for the petitioner further contends that bare perusal of the FIR shows that allegations against the petitioner are that complainant got to know that petitioner is going to hatch a conspiracy to



murder him and his family. The aforesaid bald statement made by complainant is not enough to prosecute the petitioner. The allegations being totally discrepant and without any basis, the instant FIR which is nothing but an abuses of process of law needs to be quashed.

4. State counsel as well as respondent No.2 vehemently opposed the quashing of FIR as the allegations against the petitioner are serious in nature.

5. I have heard counsel for the parties and have carefully perused the records of the case.

6. At this stage, it would be important to peruse Section 195-A of IPC which reads as under:-

“195-A Threatening any person to give false evidence

Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both; and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentenced in the same manner and to the same extent as such innocent person is punished and sentenced.”

7. A bare reading of the above provision shows that there should be an actual threat of injury to person, reputation or property



with an intention to cause that person to give false evidence. Bare reading of Section 195-A of the Code indicates that in order to constitute offence punishable under the same, it is necessary to show that an individual is threatened with an injury to his person, reputation or property and that such threats are being administered with an intent to cause that person to give false evidence.

8. Supreme Court in the case of **Salib @ Shalu @ Salim vs. State of U.P. and others**, *reported as 2023(3) Law Herald (SC) 1889*, held as under:-

“16. A plain reading of the aforesaid provision indicates that if any individual is threatened with any injury to his person, reputation or property and such threats are administered with intent to cause that person to give false evidence, the same would constitute an offence under Section 195A of the IPC. In our opinion, none of the ingredients to constitute the offence punishable under Section 195A of the IPC are disclosed, on plain reading of the FIR and the further statement of the first informant including the statement of the so-called eye witness. The allegation in the FIR is that the accused persons threatened and pressurised the first informant to withdraw her first FIR bearing No. 122 of 2022 registered for the offences punishable under Sections 376D, 323, 120B, 354A and 452 resply of the IPC. There is nothing to indicate that the accused persons threatened the first informant with intent that the first informant gives false evidence before the Court of law. The later part of Section 195A makes it very clear that false evidence means false evidence before



the Court of law. On such false evidence if a person is convicted and sentenced, then the person found guilty of administering threats would be liable to be punished with the same punishment and sentence in the same manner and to the same extent as such innocent person is punished and sentenced. The word “false” in Section 195A should be read in the context with what has been explained in Section 191 of the IPC which falls in Chapter XI – of False Evidence and Offences Against Public Justice. Thus, even if we believe the allegations levelled in the FIR to be true, none of the ingredients to constitute the offence punishable under Section 195A are disclosed. To give threat to a person to withdraw a complaint or FIR or settle the dispute would not attract Section 195A of the IPC.

17. In the aforesaid context, we must look into Section 195A of the Code of Criminal Procedure, 1973 (Cr.PC). Section 195A of the CrPC reads thus:-

“Section 195A. Procedure for witnesses in case of threatening, etc.—A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code (45 of 1860).”

18. The plain reading of the aforesaid provision indicates that if a witness or any other person receives threats and such threats are administered with an intent to cause that person to give false evidence before the Court, then such witness or person can file a complaint in relation to the offence under Section 195A of the IPC. It goes without saying that such complaint has to be lodged before the Court recording the evidence. Section 195A of



the CrPC provides a remedy of filing a complaint. “Complaint” means as defined under Section 2(d) of the CrPC which reads thus:-

“Section 2(d) “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report. Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;”

9. In the present case, the complainant had mere apprehension of harm/murder and in no manner is relatable to offences falling within the ambit of Section 195-A of IPC or its defining clause contained in Section 191 IPC. Later part of Section 195-A makes it clear that false evidence means false evidence before the court of law.

10. Principles w.r.t. exercise of jurisdiction under Section 482 Cr.P.C. vis-a-vis quashing of FIR and to criminal proceedings stand well culled out in **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 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.

(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.”

11. In view of the ratio of law laid down in **Bhajan Lal's** case (supra) and applying the same to the facts of the present case, it is evident that in the absence of necessary allegations to constitute culpable offence, the case of the petitioner would fall within category 2 as carved out by the Apex Court.

12. Resultantly, the present petition is allowed. FIR No.45 dated 15.02.2021, registered for offences punishable under Sections



195-A and 120-B of IPC, 1860 (Sections 180, 506 and 34 of IPC, 1860 added later on) at Police Stations Sadar Gohana, District Sonapat and all proceedings arising therefrom are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

06.08.2024

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No