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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

201/2

CRM-40913-2017 in/and
CRM-M No.48443 of 2017
Date of decision: 16.12.2024

Rajni Gupta ... Petitioner

Vs.

The State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Suman Jain, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Nishant Raj, Advocate
for respondent No.2.

MANISHA BATRA, J. (Oral)

CRM-40913-2017

The application is allowed as prayed for subject to all just exceptions.

Main Case

1. Prayer in this petition has been made by the petitioner for quashing of FIR No.361 dated 11.08.2014 registered under Sections 406, 420, 467, 468, 471 and 120-B of IPC at Police Station Panchkula, Sector 5, District Panchkula and the subsequent proceedings having emanated therefrom.

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2. The aforementioned FIR had been registered on the basis of a complaint lodged by the respondent No.2-complainant Rohan Gupta alleging therein that he was given birth by his mother Smt. Usha from loins of Sh. Raj Kumar Gupta who was already married to mother of the present petitioner. Sh. Raj Kumar Gupta was allottee of a plot at Sector-21, Panchkula. After his death on 02.07.2012, the petitioner who is his step sister and is posted as Protection Officer in District Panipat, by misusing her post and position and in connivance with the officers of HUDA Department, Panchkula, prepared some forged and false documents and usurped his share in the plot owned by his father though being one of the legal heirs of Sh. Raj Kumar Gupta, he was entitled to a share in the same by way of inheritance. While expressing willingness to get his DNA examination done, he prayed for taking action in the matter. After registration of FIR, investigation proceedings were initiated. The petitioner joined investigation. She was extended benefit of bail. Two more persons namely, Daljit Seth and N.K. Gupta were also nominated as accused. After completion of investigation, challan has been presented against the petitioner and the co-accused.

3. It is argued by learned counsel for the petitioner that the impugned FIR is liable to be quashed as no case for committing of offence of cheating, forgery or use of the forged document, has been made out against her at all. Infact, real facts have been concealed by the complainant. After the death of Sh. Raj Kumar Gupta, who was father of

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the petitioner, Smt. Usha who is mother of the respondent No.2 had filed a suit for declaration claiming that a house situated at Panipat and owned by Sh. Raj Kumar Gupta was constructed with her funds and by also claiming that Sh. Raj Kumar Gupta, had developed physical relations with her by alluring her and in order to beget a son, as he did not have any male issue and the complainant was born out of his loins. The said suit was subsequently withdrawn by her on 04.12.2012. Subsequently, the respondent No.2-complainant, who was a minor at that time filed a complaint through his mother Smt. Usha, making prayer for registration of FIR under Section 156 (3) of Cr.P.C. The said complaint had also been dismissed in default vide order dated 23.07.2014. The petitioner's mother and sister have filed a suit for declaration against Smt, Usha and the registration of this FIR are a counterblast to the same. The petitioner is a Government official. The plot in dispute was transferred in her name on the basis of a Will executed by her father on 29.06.2012 in the presence of witnesses. This Will was duly registered. The respondent No.2 has been wrongly claiming to be born out of the loins of her father. The prosecution was launched against her and challan has been presented without taking into consideration the fact that neither the ingredients required for commission of offence of cheating nor of forgery, have been even prima facie established against her. With these broad submissions, it is urged that the petition deserves to be allowed.

4. The respondent No.1-State has filed a reply by way of affidavit

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submitting therein that during the course of investigation, the signatures alleged to be that of testator Raj Kumar Gupta on the Will in question had been compared with his admitted signatures and as per report received from FSL Madhuban, the same have been forged. The petitioner is beneficiary of the Will. The allegations of forging the signatures of her father on the Will in question and getting transferred the property of her father transferred in her name on the basis of false document, have been prima facie established. With these broad submissions, it is urged that no case for quashing of the FIR and the proceedings having emanated therefrom, is made out.

5. At the outset, it will be beneficial to look into the scope and ambit of the Court's power under Section 482 of the Code as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under this section, the High Court is not expected to analyze all the facts, which are placed before it and to not ordinarily embark upon an enquiry whether the evidence in question is reliable or not and whether on a reasonable appreciation of it, the accusation would not be sustained as that is the function of the trial Court. (See **State of Andhra Pradesh vs. Gourishetty Mahesh and others**, 2010 Criminal Law Journal 3844). The inherent powers under Section 482 of the Code can be exercised only when no other remedy is available to the litigant. Such powers are very specific and are meant to

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secure the ends of justice, to prevent abuse of process of Court or to pass such orders as may be necessary to give effect to any order under the Code. (See **Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy and others**, (2011) 12 SCC 437). In **Gian Singh vs. State of Punjab**, (2012) 10 SCC 303, Hon'ble Supreme Court had observed that the inherent power under Section 482 of the Code is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Hon'ble Supreme Court in **Dr. Monica Kumar and another vs. State of U.P. and others**, (2008) 8 SCC 781, has propounded that the inherent jurisdiction under Section 482 of the Code, though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to the whims and caprice.

6. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent powers under Section 482 of the Code to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. An important pronouncement on this

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point is the case cited as **State of Haryana vs. Bhajan Lal**, 1992 SUPP (1) SCC 335, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

- (i). 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.
- (ii). Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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.
- (iii). 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.
- (iv). Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (v). Where the allegations made in the F.I.R. 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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(vi). 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.

(vii) 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.

7. Reference can also be made to **M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and others**, 2021 SCC OnLine SC 315 wherein it was observed as follows:-

“57. 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;

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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. 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.

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;

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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. 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 v. State of Punjab**, AIR 1960 Supreme Court 866 and **Bhajan Lal** (supra), it has the jurisdiction to quash the FIR/complaint; and

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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., 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."

8. The contentions raised by the petitioner have been considered keeping in view the well settled proposition of law as discussed above and this Court has observed that the allegations against the petitioner are that by hatching a criminal conspiracy with the co-accused, she forged signatures of her father on a Will and then got it registered and on the basis of which she got transferred the property left by her father in her favour to the exclusion of the respondent No.2-complainant who is claiming to be born out of the loins of Sh. Raj Kumar Gupta, father of the present petitioner. The police authorities after conducting thorough investigation in the matter have filed challan against the petitioner and two more persons who were attesting witnesses to the Will in question. This Court is as such not expected to exercise its inherent powers to quash the proceedings which even otherwise are required to be exercised in rarest of rare cases and with extreme caution. This Court is not inclined to embark on the question as to whether the evidence collected

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against the petitioner is reliable or not or whether the accusation would not be sustained in conviction as that is the function of the trial Court. The petitioner intends to stifle a legitimate prosecution at this stage which should not be allowed. Accordingly, finding no ground to interfere at this stage for quashing of FIR and the subsequent proceedings, the petition is dismissed. The petitioner is permitted to appear before the learned trial Court on or before the date fixed by it.

- 9. A copy of this order be sent to the trial Court with direction to proceed further with the trial.
- 10. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

16.12.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes