



CRM-M-28154-2024 (O&M)
Date of decision : 12.11.2024

...Petitioner

Versus

...Respondents

Present:- Ms. Vasundhara Dalal Anand, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of Code of Criminal Procedure (*for short* 'Cr.P.C.') seeking quashing of FIR No. 153 dated 28.06.2023, registered under Sections 120-B, 420, 465, 467, 468 and 471 of IPC at Police Station Industrial, Sector 7, Manesar, District Gurugram along with all the subsequent proceedings emanating therefrom.

2. Brief facts of the case relevant for the disposal of the present petition are that the abovementioned FIR was registered on the basis of a written complaint submitted by complainant Bobby Jain alleging therein that he came into contact with one Kamlesh Kumar Verma in January, 2017. He was the Director of Winsoft Play School International Pvt. Ltd. (*for short* 'School'). The complainant had several meetings with aforesaid

Kamlesh Kumar Verma in the premises of his factory at Manesar. During

those meetings, Kamlesh Kumar Verma expressed his interest to take the ground floor and basement of complainant's property bearing No. D-47, Mansarovar Garden, New Delhi on lease. The complainant agreed to the said offer and leased out the ground floor and the basement of his aforesaid property to Kamlesh Kumar Verma, vide lease deed dated 02.02.2017. However, during the period of COVID-19 pandemic, the School through its Directors did not pay the full rent to the complainant, due to which, the arrears of rent amount had accrued against them. The complainant had served legal notices upon the School on 18.08.2021 and 19.05.2022. In the month of October, 2021, Kamlesh Kumar Verma came to the factory of the complainant with some documents, pre-prepared agreements/memorandum of understanding, on the basis of which, he wanted the complainant to forego his pending claim qua arrears of rent and proposed to pay the due rent on his terms but the complainant did not give his consent. On this, Kamlesh Kumar Verma proclaimed that he can put the signatures of the complainant on his own on the aforesaid documents, if he did not agree to his suggestions. Later on, the complainant sold the said property to one Anil Pahwa on 10.03.2022 and the School became the tenant of the new owner. However, at the time of sale of the property, the School did not clear the outstanding rent, which was to the tune of Rs.80,89,755/-. The complainant even sent a legal notice in this regard but to no avail.

3. As per further allegations, as a counterblast, Kamlesh Kumar lodged a complaint against the complainant at Police Station Kirti Nagar. The complainant joined the inquiry on 19.07.2022, wherein he was confronted with the complaint filed by Kamlesh Kumar as well as the

documents annexed with the same. It was found that Kamlesh Kumar had annexed false and fabricated agreements/memorandums allegedly signed by the complainant in the presence of two witnesses, i.e. petitioner Sidharth Singh and one Jaskirat Singh. Kamlesh Kumar had represented before the Inquiry Officer that the said agreements/MOUs were signed by the complainant on 26.10.2021 at Manesar in the presence of aforesaid witnesses. The complainant further alleged that the said agreements/MOUs were signed by the witnesses in connivance with Kamlesh Kumar in order to extract money from him. The said documents did not bear his signatures at all. While alleging that the accused persons had forged the said agreements/MOUs in the shape of valuable security and illegally created certain rights in their company's name as beneficiaries by planting their own witnesses, the complainant prayed for taking action against them. After registration of the FIR, investigation proceedings were initiated. During investigation, the present petitioner and co-accused joined investigation and were extended benefit of bail. After completion of investigation, *challan* under Section 173 Cr.P.C. was presented in the Court and presently, the petitioner along with co-accused is facing trial.

4. The petitioner has filed this petition for quashing the aforementioned FIR and the proceedings emanating therefrom on the grounds and learned counsel for the petitioner argued that the petitioner has been falsely implicated in this case. The petitioner, being a property consultant, got the aforesaid property rented out to Kamlesh Kumar for running the aforesaid school. It is further submitted that Kamlesh Kumar was regularly paying the rent to the complainant since 01.02.2017. However,

due to outbreak of COVID-19 pandemic in the year 2020, his business suffered some loss and he requested the complainant to waive off the rent, which was reduced by 50% and an MOU dated 26.10.2021 (Annexure P-3) was executed in this regard. As per said MOU, since July, 2020 onwards, Kamlesh Kumar continuously paid the agreed rent towards the said property to the complainant and payment of last and final outstanding rent was made on 01.02.2022. Thereafter, when Kamlesh Kumar demanded refund of security amount of Rs. 22,50,000/-, he sought some time and eventually stopped responding to the calls and messages. On 10.03.2022, the complainant sold the said property to Anil Pahwa and as a consequence, Kamlesh Kumar became the tenant of the property of Anil Pahwa and continued to pay rent to Anil Pahwa. Since the complainant was not inclined to refund the security amount, Kamlesh Kumar filed a complaint against him on 13.06.2022 at Police Station Kirti Nagar, New Delhi and as a counterblast to the said complaint, the complainant has got registered the FIR in question with false allegations. The petitioner has been implicated in this FIR merely on the ground that he has signed the lease deed dated 01.07.2017 and MOUs (Annexure P-3) as an attesting witness. He has nothing to do with the dispute between the parties. The allegations in the FIR, even if taken on face value, do not constitute any case as against the petitioner. The prosecution of the petitioner would be nothing but misuse of process of law. Therefore, it is argued that the FIR in question and the subsequent proceedings arising therefrom are liable to be quashed qua the petitioner.

5. Status report has already been filed by the respondent-State. It is submitted therein and learned State counsel has argued that after

conducting a thorough investigation in the case, *challan* has been filed against the petitioner as well as co-accused for commission of aforementioned offences. There are specific allegations against the petitioner, which do not make out any case for quashing of FIR in question. During the course of investigation, the petitioner has admitted his involvement in the commission of subject crime. The specimen signatures of the complainant were procured and the same were sent to RFSL, Bhondsi along with the disputed documents for comparison and as per FSL report dated 28.03.2023, the specimen signatures of the complainant did not match with the signatures upon the MOUs in question. While submitting that the complicity of the petitioner in the commission of subject crime has been well established during the course of investigation, learned State counsel has argued that the petition merits outright dismissal.

6. Learned counsel for respondent No. 2/complainant argued that the petitioner has played a crucial role in forging the aforesaid documents, thereby cheating the complainant and causing him wrongful loss. The allegations levelled against him stand corroborated from the evidence collected by the Investigating Officer during investigation, culminating into filing of chargesheet against the petitioner and co-accused. He argued that the allegations levelled in the FIR are sufficient to make out a *prima facie* case as against the petitioner. He further argued that the veracity of the allegations as levelled by the petitioner can be tested in the trial which has to take place before learned trial Court and no ground for quashing the FIR has been made out.

7. At the outset, it will be profitable to look into the scope and

ambit of the Court's power under Section 482 Cr.P.C. 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 Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. 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. A celebrated pronouncement on this 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.

(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.

8. Reference can further be made to ***Gian Singh vs. State of Punjab : (2012) 10 SCC 303***, wherein Hon'ble Supreme Court has observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power 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. Reference can also be made to ***Padal Venkata Rama Reddy @ Ramu vs. Kovvuri Satyanarayana Reddy & Ors. : (2011) 12 SCC 437***, wherein it was observed that the inherent power under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. Reliance can further be placed upon ***State of Andhra Pradesh vs. Gourishetty Mahesh and others : 2010 Criminal Law Journal 3844***, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

9. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and not a rule. In ***Monika Kumar vs. State of U.P. : (2006) 8 SCC 781***, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., 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 whims and caprice.

10. Reference can also be made to the authority cited as ***M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and***

others : 2021 SCC OnLine SC 315, wherein Hon'ble Apex Court, after analyzing and examining several judicial precedents, had observed that the Courts should not thwart any investigation into the cognizable offences; criminal proceedings ought not to be scuttled at the initial stage; the power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases' and while examining the FIR/complaint, quashing which is sought, the Court should not embark upon inquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint. It was also observed that in cases where no cognizable offence or offence of any kind is disclosed in the first information report, the Court should not permit an investigation to go on.

11. Reference can also be made to **CBI v. Aryan Singh : 2023 SCC OnLine SC 379**, wherein Hon'ble Apex Court observed that while exercising powers under Section 482 of Cr.P.C., the Courts have a very limited jurisdiction and are only required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”. In **Kaptan Singh vs. State of U.P. and others, 2021 SCC Online SC 580** and **Dhruvaram Murlidhar Sonar vs. State of Maharashtra, (2020) 3 SCC (Criminal) 672**, it was observed that the appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 of Cr.P.C. as this power is an exception and not a rule. Inherent jurisdiction under Section 482 of Cr.P.C. though wide is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is also well settled proposition of law that the

Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting the trial, at the stage of exercising powers under Section 482 of Cr.P.C. In order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof.

12. This Court has considered the contentions raised by learned counsel for the parties in the wake of above discussed position of law. Now advertent to the facts of the present case, the FIR in question was registered on the complaint filed by respondent No. 2 against the petitioner and co-accused making allegations of commission of offences punishable under Sections 120-B, 420, 465, 467, 468 and 471 of IPC by them. The investigation in this case has been completed and charges have to be framed. On going through the contents of the FIR, it is revealed that the allegations clearly disclose a *prima facie* case against the petitioner, which justify the registration of criminal proceedings against him. It cannot be said that these allegations are bereft of even the basic facts, which are absolutely necessary for constituting a *prima facie* case for the offences alleged nor can it be said that the allegations made in the complaint, even if taken at face value to be true in entirety, do not disclose any offence. Rather, on appreciation of material on record on the touchstone of above said legal position, this Court finds that there are specific allegations in the FIR as against the present petitioner. Even as per FSL report, the signatures of the complainant have

not matched with the signatures put on the disputed documents. In such circumstances, the instant case certainly does not fall within any of the categories of the cases calling for the exercise of power by this Court under Section 482 Cr.P.C. It appears that by seeking to quash the FIR and the criminal proceedings, the petitioner intends to stifle a legitimate prosecution. Specific allegations have been raised in the FIR regarding forging documents/agreements and cheating the complainant. The allegations levelled in the FIR do not advance the case of the petitioner at this stage to seek quashing of the FIR. Disputed question of facts cannot be delved into by this Court at this stage to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR in question.

13. Keeping in view the facts and circumstances of the case, this Court finds no ground whatsoever to interfere at this stage for quashing of the FIR in question as well as the chargesheet filed in the same. The petition is accordingly dismissed.

14. It is, however, clarified that no observations made herein above are the reflection on the merits of the case and shall have no bearing on trial. The same are confined for the decision of the present petition only.

12.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No