

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28822-2024

Date of Decision: 13.08.2024

Raghuveer Das

.... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Akash Mehta, Advocate
for the petitioner.

RAJESH BHARDWAJ J.

1. Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of FIR No.719, dated 11.10.2023, under Sections 323, 34, 341, 506 of Indian Penal Code, 1860, registered at Police Station Thanesar Sadar, District Kurukshetra along with all subsequent proceedings arising therefrom.
2. Succinctly the facts of the case are that the present FIR has been lodged on the statement made by respondent No.2-complainant, namely, Rubal Sharma. It has been alleged that complainant/respondent No.2 was the owner in occupation of house No.561, Sector 5, Kurukshetra, plot No.51 and 52 situated near Tirupati Bala Ji Temple, Kurukshetra. He took JCB for construction of the boundary wall in his plot. As soon as they reached near the plot with the JCB and started digging, the priest of Tirupati Bala Ji Temple, Rishi Tyagi and 2-3 other persons started quarreling with them. They abused them and stopped them



from carrying out the work. They called the police, who arrived at the spot. The complainant/respondent No.2 was threatened to be killed. The complainant/respondent No.2 made a request for protecting them from the committee of Tirupati Bala Ji Temple and take legal action against the culprits. On the registration of FIR, the investigation commenced.

3. It has been contended by learned counsel for the petitioner that the petitioner is the priest of the temple and running a Gaushala near the Mandir. Gaushala is being run from the last more than 15 years and they are in possession of the said land. He submits that respondent No.2 and his father are colonizers and they wanted to illegally possess the land of Gaushala. He has submitted that respondent No.2 and his father did not have any proof of ownership of this land. Hence in order to fulfill their *malafide* motives, they forcibly entered into the premises of the temple and started giving abuses to *Mahant* and *Pujaris*. With regard to the incident having taken place on 06.08.2023, the matter was reported to the police praying for taking the legal action. He has submitted that the petitioner filed a representation dated 07.08.2023 against the greedy persons for which respondent No.2 apologized to the *Mahant* for their illegal acts, however thereafter they again started threatening the petitioner. He has submitted that the police under the pressure of respondent No.2/complainant had registered the present FIR. He has submitted that the petitioner has been granted bail in the same. He submits that from the facts and circumstances of the present case, it is apparent that the FIR has been registered with an ulterior motive and thus, the prosecution of the petitioner is nothing but an abuse of the process of the Court. He has thus submitted that the FIR deserves to be quashed.



4. I have heard learned counsel for the petitioner and perused the record.

5. After hearing learned counsel for the petitioner and perusing the record, it is apparent that complainant/respondent No.2 has registered the impugned FIR on the basis of allegations made therein. The investigation has been completed and the challan has been presented before the Court of Competent Jurisdiction. The submissions made by learned counsel for the petitioner as evident from the case are totally the disputed question of facts which can be appreciated only on the basis of the evidence to be led during the trial.

6. Hon'ble the Supreme Court in the case of **Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and another, 2021 SCC Online SC 315** has held that the High Court should exercise the power of quashing under Section 482 Cr.P.C. sparingly with great circumspection as it has been observed, in the rarest of rare cases and also criminal proceedings ought not to be scuttled at the initial stage.

7. Hon'ble Supreme Court in **State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335** has held that the High Court has inherent power under Section 482 Cr.P.C. for quashing the FIR, however, the same should not be exercised for the offence falling under the heinous categories. It has been further observed in **Bhajan Lal's (supra)** as under:-

“102. 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 channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

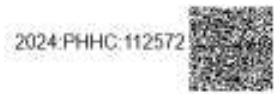
(1) “Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(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 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.

(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.”

8. Thus this Court finds no ground to interfere by exercising its powers under Section 482 Cr.P.C. However it is being clarified that the Court has not commented anything on the merits of the case and thus, the petitioner would be at liberty to raise all his grievances before the trial Court at the appropriate stage during the trial.

9. Hence, the present petition is dismissed.

(RAJESH BHARDWAJ)
JUDGE

13.08.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No