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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision:- 30.08.2024

Manoj Kumar

....Petitioner

Vs.

State of Haryana and Another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Vivek Singla, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Manoj Kumar has filed petition under Section 482 Cr.P.C. for quashing of FIR No. 129 dated 28.05.2020 under Section 304A, 34 of Indian Penal Code, 1860 (Annexure P-1), registered at Police Station HSIDC Barhi, District Sonipat and all other consequential proceedings arising out of said FIR and impugned charge-sheet dated 15.07.2021 (Annexure P-2).

2. As per the facts of case, complainant Rohtash gave his statement to police that his son Rakesh age 36 years was working as Maintenance Supervisor for ALPL Ashutosh Logistics Private Limited. On 27.05.2020, at about 05:00 pm, he received a call from his brother Dilbagh that Rakesh had suffered serious burn injuries at his work place during welding work of Traula bearing No. HR-38U-7759, as blast took place due to gas formed in diesel tank. In this incident, Rakesh and Satish Welder

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received serious injuries. Both injured were admitted at CHC Ganaur. He (complainant) along with his brother Dilbagh reached hospital where Rakesh disclosed that there was diesel in diesel tank of aforesaid Traula and he told owner of ALPL Ashutosh Logistics Private Limited Manoj to get diesel tank empty. Manoj stated that there was less diesel in tank and he should carry on with welding work. Despite his telling, owner Manoj did not get diesel tank emptied, as a result, welding work was started by Satish and he was standing nearby. He noticed that wire of welding set was cracked at number of places. He called Chetan Malhotra owner of welding set and told him to get a new wire. Chetan Malhotra stated that he was not having second wire and work should carry on. After this, Welder Satish started welding work near diesel tank, as a result, cracked wires came in contact with each other and due to spark, blast took place in diesel tank. In this occurrence, both Rakesh and Satish received burn injuries. His son was shifted to Safdarjung Hospital from CHC Ganaur. During treatment both Rakesh and Satish died. With these allegations, present FIR has been registered.

3. Learned counsel for petitioner argued that petitioner is falsely implicated in this case. At the time of said incident, he was sitting in Delhi. No specific role is attributed to him. He is owner of ALPL Ashutosh Logistics Private Limited, having 45 Traulas running through out the country. Rakesh was Maintenance Supervisor who was entrusted with duty to look after specific number of Traulas. In case there was any crack in wire of welding set, it was for Chetan Malhotra co-accused to replace the same. Therefore, there was sole rash and negligent act on the part of



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Chetan Malhotra. In case there was no crack in wire, no such incident would have taken place. Without appreciating these facts, challan has been presented and charge-sheet has been framed on 15.07.2021, Annexure P-2. Learned counsel for petitioner has referred to the judgment of **Hon'ble Supreme Court of India** in a case titled "**Haji Iqbal @ Bala Through S.P.O.A. Versus State of U.P. & Ors.**" 2023 AIR (Supreme Court)

3964. Relevant para No. 15 runs as under :-

"15. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under section 482 of the Code of Criminal Procedure, 1973 (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the



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averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under section 482 of the CrPC, 1973 or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.....”

In the light of aforesaid facts and circumstances, it is prayed that present petition be allowed and FIR No. 129 dated 28.05.2020 under Section 304A, 34 of Indian Penal Code, 1860 (Annexure P-1), registered at Police Station HSIDC Barhi, District Sonipat and subsequent proceedings thereon be quashed.

4. On the other hand, petition is opposed by learned counsel representing State of Haryana. Status report has been filed. Proper investigation was carried out. During investigation, specific role is attributed to present petitioner and Chetan Malhotra. After completion of investigation, challan was presented and finding a *prima facie* case, charge-sheet is also framed against present petitioner and co-accused. Considering the facts of case and specific role attributed to present petitioner, he is not entitled to any relief and petition filed by him may be dismissed.

5. I have considered the arguments and have gone through the record. Contents of FIR as referred above indicates specific role attributed to present petitioner Manoj Kumar who is owner of ALPL Ashutosh Logistics Private Limited, who allegedly did not permit Rakesh to empty the diesel tank where welding work was to be carried out. Thereafter, there



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Satish with wire having cracks and further refused to bring new wire. As a result when welding work started, there was spark due to touching of wire and blast took place, as there was diesel in tank. Arguments advanced by learned counsel for petitioner that no role is attributed to him does not hold any ground. He further claimed that he was not present on the spot and it was Rakesh who was responsible for repair of Traula. It has come in FIR that Rakesh had called present petitioner seeking permission to empty the diesel tank to which Manoj Kumar had allegedly refused. Points raised by learned counsel for petitioner are matter of defence. Even the trial Court finding *prima facie* case has framed charge-sheet against accused under Section 304-A of IPC. Considering the facts of case, matter can be decided only after recording of evidence. I do not find a fit case for quashing present FIR.

6. In view of aforesaid facts and circumstances of case, finding no merits in the petition filed by petitioner, same is dismissed.

7. My above observations are made only for the disposal of present petition and it will have no bearing on the merits of trial which is to be decided by the Court concerned by appreciating the evidence led during trial.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

30.08.2024

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No