

**CRM-M-44084-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.117****Case No. : CRM-M-44084-2024****Decided On : September 24, 2024**

Jaswinder Kaur

.... Petitioner

vs.

State of Punjab and others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.**

\* \* \*

Present : Mr. Jagdeep Singh Bajwa, Advocate  
for the petitioner.

Ms. Avneet, AAG, Punjab.

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**GURBIR SINGH, J. :**

1. Prayer in this petition, filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) is for quashing the FIR No.04 dated 02.06.2018 (Annexure P-1), lodged against the petitioner, under Sections 448, 511 IPC, registered at Police Station NRI Patiala, District Patiala, along with all consequential proceedings arising therefrom.

2. The aforesaid FIR was registered against the petitioner at the instance of complainant/respondent no.2 Amandeep Kaur (now resident of Canada), with the allegations that on 10.01.2018, the petitioner along with three unknown people trespassed her house situated at 11-B, St.No.5, Dashmesh Nagar, Patiala and asked her care taker not to interfere. The next day, the petitioner again came and tried to get the keys forcibly. On 19.01.2018, she tampered the locks and got the duplicate keys prepared and



handed over the same to the neighbours to use the house, without consent of the complainant. To solve the problem, the complainant sent someone at the spot and got the locks of her house changed. Again on 20.01.2018, it is alleged that the petitioner dared to cut even the new locks and tried to enter the house of the complainant multiple times. She also dug a hole in the lawn area and buried something, which might be some objectionable object. She also threatened everyone over there of dire consequences if someone would stop her and yelled a lot. After inquiry into the matter, the FIR in question was registered.

3. Learned counsel for the petitioner has submitted that the petitioner married with Bhajan Singh (father-in-law of the complainant) on 13.08.1997 at Patiala (it was second marriage of Bhajan Singh) and from her wedlock, two children were born. The petitioner has been living in the aforesaid house for the last many years with her husband and children. In order to dispossess the petitioner from the said house, the complainant has concocted a false story and filed the frivolous FIR against her as she wanted to get the house vacated from the petitioner and her husband, who is the original owner of the house. Bhajan Singh firstly executed a Power of Attorney in favour of his son Gurpreet Singh (from his first marriage), who further transferred the above said property to his wife Amandeep Kaur (the complainant). It has further been submitted that even the Punjab State Commission for NRIs, vide order dated 01.08.2018, had recommended that the FIR in question should be cancelled and the parties should be left to sort out their dispute, which is of civil nature. It has also been brought to the



notice of the Court that the petitioner and her children had already filed a Civil Suit (Annexure P-6) against Bhajan Singh, his son Gurpreet Singh and complainant Amandeep Kaur seeking declaration and permanent injunction.

4. Learned counsel for the petitioner has further contended that offence of criminal trespass is not made out if a property, on which trespassing is alleged, is not in the possession of the complainant. Reliance in this regard has been placed on **Naresh Kumar vs. State of Karnataka** reported as **2024 Live Law S.C. 228** and **Vishnu Kumar Shukla vs. State of U.P.** reported as **2023 Live Law S.C. 1019**.

5. I have heard the submissions of learned counsel for the petitioner and perused the case file.

6. The specific allegation against the petitioner is that she tried to trespass the house of the complainant. It is a question of evidence whether the petitioner made any attempt to trespass the said house or not. It is also a question to be decided after recording evidence if complainant is not in possession of the house. The contentions raised by learned counsel for the petitioner are totally a matter of trial, which would be appreciated by the learned Trial Court by weighing the evidence led by the parties.

7. Hon'ble Supreme Court in the case titled **State of Haryana vs Bhajan Lal** reported as **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 the case of **Bhajan Lal**

***(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*



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*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.

In the case of Neeharika Infrastructure Pvt. Ltd. vs. State of

Maharastra and another reported as 2021 SCC Online SC 315, Hon'ble Supreme Court has held that the High Court should exercise the power of quashing under Section 482 Cr.P.C. sparingly with great circumspection, in the rarest of rare cases and also criminal proceedings ought not to be scuttled at the initial stage.

9. Since culpability of the petitioner would be seen during trial of the case, so, the authorities cited by learned counsel for the petitioner are of no help at this stage. Any recommendation made by any Commission, regarding quashing the FIR, is not binding upon the Criminal Court.

10. In view of the above discussion, the present petition is without any merit and the same is hereby dismissed. However, the petitioner would be at liberty to raise all her grievances before the trial Court at an appropriate stage during the trial.

11. Pending applications, if any, shall stand disposed of along with this judgment.

September 24, 2024  
monika

(GURBIR SINGH)  
JUDGE

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|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |