

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126+208 CRM-8809-2024 in/and
CRM-M-47894-2023
Date of Decision.:28.02.2024

Lokesh Dhussa & anotherPetitioners
Vs.
State of Haryana & anotherRespondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. R.S. Bains, Senior Advocate with
Mr. Amarjeet, Advocate for
the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

Mr. S.S. Antal, Advocate for
respondent No.2.

DEEPAK GUPTA, J. (ORAL)

CRM-8809-2024:

This is an application under Section 482 Cr.P.C. moved by
respondent No.2 to take on record the reply filed by him.

- 2. Learned counsel for the petitioner has no objection.
- 3. Allowed.
- 4. Reply filed on behalf of respondent No.2 is taken on record.

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- 5. By way of this petition filed under Section 482 Cr.P.C., prayer
is made to quash final report dated 05.06.2023 under Section 173 Cr.P.C.
(Annexure P-4/T) along with FIR No.0156 dated 10.04.2023 (Annexure P-

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1/T) registered under Sections 120-B, 406, 420, 506 of the IPC, 1860 registered at Police Station Baldev Nagar, District Ambala.

6. FIR was lodged on the complaint of one Kanwarjit Singh as per which he had a medicine shop in Jasmeet Nagar, Ambala City. In 2016 he had sold medicines worth ₹2,57,000/- to accused Lokesh Dhussa (*petitioner No.1*) from May, 2019 to August, 2019. Said Lokesh Dhussa paid an amount of ₹1,52,000/- in his bank account out of the cost of medicines but remaining amount of ₹1,04,000/- is yet to be paid. It was further stated in the FIR that complainant asked said Lokesh Dhussa many times during 2019 to 2021 to pay the dues but in vain. In 2021, when said Lokesh Dhussa again came to the shop of the complainant to supply more medicines, complainant refused, asking for his previous money but the petitioner threatened the complainant.

7. It is contended by learned senior counsel for the petitioner that the bare perusal of the FIR would reveal that it was a money dispute between the parties. The said dispute pertains to the year 2019 but FIR has been lodged on 10.04.2023 i.e. after the lapse of more than four years, when the limitation period to recover the disputed amount had elapsed. Learned senior counsel then drawn attention towards the final report under Section 173 Cr.P.C. in which it is simply observed that petitioners had joined the investigation, without specifying as to how the offence was made out. Prayer is made for quashing the FIR and the consequent challan under Section 173 Cr.P.C.

8. Learned State counsel as well as learned counsel for the complainant were at loss of words to explain this Court as to how the offence under Section 406 & 420 of the IPC is made out.

9. As per the own version in the complaint, out of ₹2,57,000/- for which the medicines were sold, the petitioner had already paid an amount of ₹1,52,000/-. In case, the remaining amount of ₹1,04,000/- was not paid, it was purely a civil dispute. There can be no question of invoking Section 406 or 420 of the IPC in such circumstances.

10. The present FIR is a clear case of gross misuse of the process of law. Since the matter pertains to the year 2019, so obviously the remedy under civil law for the complainant had become barred by time and so it appears that he sought relief from the police to get his recovery effected under the garb of the present FIR. The police also appears to have obliged the complainant in lodging the FIR and filing the report under Section 173 Cr.P.C., without even applying its mind as to how the ingredients of Section 406 or 420 of the IPC were made out.

11. In ***“State of Haryana and others Vs. Ch. Bhajan Lal and others”*** 1992 AIR 604, Hon’ble Supreme Court has laid down the guidelines as to the cases in which High Court can exercise its extraordinary power to quash the FIR under Section 482 Cr.PC. It was held as under: -

“8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given 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 channelised and inflexible guide of myriad kinds of cases wherein such power should be exercised:

“(a) 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;

(b) 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) 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.”

12. The present case squarely falls under guideline No.(a), (c) & (g) as mentioned in ***Bhajan Lal’s case***. In view of the aforesaid factual legal

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position, this Court is of the considered view that continuation of any proceedings arising out of the FIR will be sheer wastage of time.

13. Consequently, final report dated 05.06.2023 under Section 173 Cr.P.C. (Annexure P-4/T) along with FIR No.0156 dated 10.04.2023 (Annexure P-1/T) registered under Sections 120-B, 406, 420, 506 of the IPC, 1860 registered at Police Station Baldev Nagar, District Ambala and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioners.

(DEEPAK GUPTA)
JUDGE

February 28, 2024
Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No