

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201 CRM-M-40217-2015
Date of Decision : March 19, 2024

ASHOK KUMAR -PETITIONER

V/S

STATE OF PUNJAB & ANR -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Raghav Garg, A.A.G, Punjab.

Mr. Alok Mittal, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

- Through the instant petition, as instituted under Section 482 of the Cr.P.C., the petitioner seeks quashing of FIR No.104 dated 20.11.2013, under Sections 406, 420, 506 of the IPC, registered at P.S. Sanaur, District Patiala, along with all subsequent proceedings emanating therefrom.
- The learned counsel for the petitioner has, in his asking for the relief (supra), made heavy dependence upon an enquiry report (Annexure P-4), wherein, the inquiry officer has concluded the matter to be civil in nature. He has submitted that, just to arm-twist the petitioner, a civil dispute has been camouflaged as a criminal litigation.
- The learned counsel for the petitioner has further argued that the incident, as alleged in the instant FIR, pertains to the year 2006-2007, whereas, the instant FIR has been registered in the year 2013, i.e. after an

elongated and unexplained delay of 6/7 years, and as such, the instant FIR suffers from the vice of delay and laches.

4. Lastly, the learned counsel for the petitioner has argued that the complainant/respondent No.2 has already instituted a civil suit for redressal of his grievance, however, he has not raised any of the allegations, as raised in the instant FIR, before the learned civil court concerned, which clearly reflects that the instant FIR is a result of premeditation and concoction.

5. *Per contra*, the learned counsel for the respondent No.2 has opposed the submissions and prayer made by the learned counsel for the petitioner, on the ground that, the issues, as raised by the learned counsel for the petitioner, are disputed questions of facts, which are required to be adjudicated by the learned trial Court, after appreciation of the evidence, which may become adduced before it.

6. The learned counsel for the respondent No.2 has further argued that, upon finding commission of a *prima facie* offence against the petitioner, charges have already been framed against him and his co-accused, vide order dated 31.03.2016. Moreover, the allegations speak in volume that the petitioner along with his co-accused has in fact committed the offence, which attracts the provisions of Sections 406 and 420 of the IPC.

7. This Court has heard the arguments advanced by the learned counsels for the contesting litigants and perused the record.

8. Be that as it may, (i) since charges have already been framed against the petitioner and his co-accused; and (ii) the arguments advanced

by the learned counsel for the petitioner encompass disputed questions of facts, which are required to be adjudicated, through appreciation of evidence, which may become adduced before the learned trial Court concerned, this Court refrains from, at this stage, exercising its jurisdiction under Section 482 of the Cr.P.C. Consequently, the instant petition is **dismissed**. However, liberty is reserved to the petitioner to raise his plea(s), claim(s) and grievance(s), as raised herein, before the learned trial Court at an appropriate stage.

9. It is clarified that anything observed hereinabove is meant only for examining the issue of quashing of the instant FIR, in exercise of jurisdiction under Section 482 of the Cr.P.C., and, the same shall not have any bearing upon final decision of the learned trial Court concerned.

March 19, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No