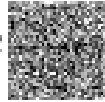


2024:PHHC:108952



CRM-M-55579-2023
Date of Decision: 01.02.2024

....PETITIONER

.....RESPONDENT

2. For brevity, facts of the case unfolds as the petitioner is running a restaurant by the name of Street Style Cafe Family Restaurant at Boda Gate, Nabha where on 12.12.2022 at 10.30 PM, 4-5 unknown persons armed with rods and kirpans entered the restaurant and started beating the petitioner and his employee namely Jasvir Singh hearing which brother of the petitioner Harvinder Singh also reached the spot and they all were encircled by the accused persons and inflicted injuries wherein the petitioner received injuries

on the backside of the head, left elbow and legs and later fled away from the spot while issuing threats.

3. Learned counsel for the petitioner contends that after the registration of FIR, Kamaljit Singh @ Mandi; Pavittar Singh; Dalwinder Singh @ Bindri @ Lambu; Jogvir Singh @ Joga, and Rinku were arrayed as accused in the present case wherein the investigating agency arrested accused Pavittar Singh; Dalwinder Singh @ Bindri @ Lambu, and Jogvir Singh @ Joga but later on they were released on bail.

4. He further contends that the father of the petitioner took him to the Civil Hospital, Nabha wherein he remained admitted for 2 days and as per the MLR, he received following injuries:-

i. A lacerated wound 5cm X 0.5cm X 0.2cm present on head in parietal region in middle horizontally. Active bleeding present. Adv. X-ray head and surgeon opinion.

ii. C/o pain in left elbow. No external injury mark seen. Adv. X-ray left elbow joint ortho opinion.

5. He vehemently argues that the from perusal of the MLR, it is a clear cut case of attempt to murder however the investigating officer namely ASI Inder Singh, in connivance with the accused persons registered FIR under bailable offences and thus changed the nature of the trial. He further argues that subsequently FIR No. 61 dated 02.04.2023 under section 302/34 IPC was registered against accused Pavittar Singh and others at P.S Sadar Nabha, Patiala in which all the accused were arrested.

6. He further argues that the petitioner submitted a detailed representation dated 10.07.2023(Annexure P-2) to respondent No. 2 to direct the investigating officer to present the challan in the aforesaid FIR but despite

lapse of more than 9 months the investigating agency has failed to conclude the investigation coupled with the fact that all the accused are roaming freely.

7. Learned state counsel on the other hand, accepts notice in advance on behalf of the state and contends that the court though under its inherent powers has all the rights to intervene or question the working of the investigating agency but this power should be used sparingly in cases where it is apparent that non interference of the court would cause grave harassment or injustice. In the instant case, since nothing incriminating or illegality caused by the investigating agency has come on record therefore it should be free to proceed in its own way without any unnecessary interference of the court.

8. Heard learned counsels for the respective parties at length.

9. when an aggrieved person approaches the court in a petition under Section 482 Cr.P.C., then the court is possessed with enormous powers to do justice or remove injustice. The Court's vast powers are meant to prevent any abuse of the process or to secure the ends of justice. These powers must be exercised for the advancement of justice. Ends of justice are always higher than the ends of mere law and for accomplishing that noble goal the courts have rightly been invested with adequate powers. While saying so at the same time it has to be kept in mind that though the powers possessed by the High Court are extremely wide but the very plentitude of the power requires the court to function with greater caution and circumspection in the exercise of those powers.

10. In other words, the power under Section 482 Cr.P.C., is to be exercised, ex debito justitiae, ie to do real and substantial justice While exercising powers under Section 482, High Court cannot interfere with the manner of investigation of a case or direct the investigating agency to

investigate from a particular angle or to arrest the accused. The same was observed by the Apex Court in ***“M.C. Abraham and Another vs State of Maharashtra and Others” (2003) 2 SCC 649***, wherein it has further gone to the extent of saying that investigating agency is the master of investigation and is at liberty to proceed in its desired direction being free from any interference.

11. Further the Apex Court in ***“P. Chidambaram v Directorate of Enforcement” 2019 (4) R.C.R. (Criminal) 875*** observed the following:

“63. Investigation into crimes is the prerogative of the police and excepting in rare cases, the judiciary should keep out all the areas of investigation. In “State of Bihar and another v. P.P. Sharma, IAS” and another 1992 Supp. (1) 222, it was held that “The investigating officer is an arm of the law and plays a pivotal role in the dispensation of criminal justice and maintenance of law and order.Enough power is therefore given to the police officer in the area of investigating process and granting them the court latitude to exercise its discretionary power to make a successful investigation...”. In “ Dukhishyam Benupani, Asstt. Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria” (1998) 1 SCC 52, this Court held that “.....it is not the function of the court to monitor investigation processes so long as such investigation does not transgress any provision of law. It must be left to the investigating agency to decide the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences. A blanket order fully insulating a person from arrest would make his interrogation a mere ritual.”

64. As held by the Supreme Court in a catena of judgments that there is a well-defined and demarcated function in the field of investigation and its subsequent adjudication. It is not the function of the court to monitor the investigation process so long as the investigation does not violate any provision of law. It must

be left to the discretion of the investigating agency to decide the course of investigation. If the court is to interfere in each and every stage of the investigation and the interrogation of the accused, it would affect the normal course of investigation. It must be left to the investigating agency to proceed in its own manner in interrogation of the accused, nature of questions put to him and the manner of interrogation of the accused.

65. It is one thing to say that if the power of investigation has been exercised by an investigating officer mala fide or non-compliance of the provisions of the Criminal Procedure Code in the conduct of the investigation, it is open to the court to quash the proceedings where there is a clear case of abuse of power. It is a different matter that the High Court in exercise of its inherent power under Section 482 Cr.P.C., the court can always issue appropriate direction at the instance of an aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide and not in accordance with the provisions of the Criminal Procedure Code. However, as pointed out earlier that power is to be exercised in rare cases where there is a clear abuse of power and non-compliance of the provisions falling under Chapter XII of the Code of Criminal Procedure requiring the interference of the High Court. In the initial stages of investigation where the court is considering the question of grant of regular bail or pre-arrest bail, it is not for the court to enter into the demarcated function of the investigation and collection of evidence/materials for establishing the offence and interrogation of the accused and the witnesses.”

12. Court should be extremely cautious and slow to interfere with the investigation of criminal cases and should rather keep its hands off and allow the investigating agency to complete the investigation without any fetter. Further, unless case of gross abuse of power is made out against those in

charge of investigation, the court should be loath to interfere at any stage of investigation.

13. Considering the facts and above stated discussion, this court is of the considered opinion that the court while exercising its inherent powers should not unnecessarily intervene in the working of the investigating agency only to hush up the process. Meaning thereby, it is not open to this Court to exercise its inherent powers and extra ordinary jurisdiction under Section 482 Cr.P.C., to unsettle the investigating agency at this stage by no stretch of imagination.

14. In view of above, the present petition being devoid of any merit, is dismissed.

01.02.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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