

**Sr. No.115****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-53051-2024****Date of decision: 07th November 2024****INDRAJ****.....Petitioner****versus****STATE OF HARYANA AND ANOTHER****.....Respondents****CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Ashwani Sharma, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) for quashing of FIR No.1356 dated 27.12.2023, under Sections 294, 354-A, 451, 506 IPC, 1860 and Section 3 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015), registered at Police Station HTM, Hisar (Annexure P-1) and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the aforesaid FIR was registered at the instance of respondent No.2-Poonam, who is the sister-in-law (*bhabhi*) of the petitioner's wife, with an ulterior motive and to settle the score as there was a matrimonial litigation *inter se* the petitioner and his wife. It is contended that the petitioner purchased a residential property wide Sale Deed No.2299 dated 24.10.2000. However, the said sale deed was executed in the name of the wife of the petitioner-Smt. Kiran Bala.

The entire sale proceeds were paid by the petitioner, as such, subsequently,

an agreement dated 07.11.2002 (Annexure P-2) was executed between the



petitioner and his wife and the wife of the petitioner gave no objection for sale of the said house to a third person or for transfer of the said house in the name of the petitioner-husband.

2.1 It is further contended that the petitioner also purchased 20 *bighas* of land in Mahajan (Rajasthan) and under pressure, the sale deed of the said land was also got registered in the name of the wife of the petitioner. Later on, the wife of the petitioner executed an agreement to sell and received an earnest money of ₹15 lakhs. However, she did not execute the sale deed, which resulted in the registration of an FIR under Section 420 IPC against the wife of the petitioner-Kiran Bala, at Police Station Mahajan (Rajasthan). Although the matter was later on compromised between the parties.

2.2 It is further contended that the petitioner had submitted a complaint to the Superintendent of Police, Fatehabad (Annexure P-3) and another complaint to the Deputy Superintendent of Police, Hisar (Annexure P-4) for taking legal action against his wife. The petitioner had also filed a civil suit in the year 2024 for declaration (Annexure P-5) to the effect that he is the owner of the aforesaid properties. Even the wife of the petitioner and his children have filed an application (Annexure P-6), under Section 125 Cr.P.C. seeking maintenance from the petitioner. Due to the said litigation *inter se* the petitioner and his wife, the present FIR has been lodged at the instance of respondent No.2, who is a close relative of the wife of the petitioner. The FIR is a misuse of the process of law.

3. Notice of motion.



4. Mr. Amrik Singh Narwal, D.A.G., Haryana, accepts notice on behalf of the respondent-State and submits that there are specific allegations against the petitioner regarding the incident dated 21.12.2023, which has been reported and further explained by respondent No.2 in her statement recorded under Section 164 Cr.P.C.

4.1 Learned State counsel further informs that the investigation is complete. During the investigation, the statements of witnesses were recorded and after completion of investigation, final report/challan under Section 173 Cr.P.C. has been submitted before the trial Court. Even the charges have been framed and the trial Court has issued a charge-sheet to the petitioner. The trial is at the stage of recording of the evidence of the prosecution.

5. Mr. Aditya Sanghi, Advocate has put in appearance on behalf of respondent No.2 and filed his '*vakalatnama*', which is taken on record. He submits that even a neighbour of the prosecutrix had made a statement during the investigation corroborating the version of the prosecutrix. The said neighbour is an independent witness.

6. I have heard the learned counsel for the petitioner as well as the learned State counsel at length and perused the relevant documents.

7. The petitioner is seeking the exercise of powers under Section 482 Cr.P.C. for quashing of the FIR and subsequent proceedings arising therefrom. The petitioner has placed reliance upon a litigation *inter se* the petitioner and his wife and taken a plea that the FIR was got registered by the wife of the petitioner with an ulterior motive through her relative. It has



27.12.2023 with regard to an occurrence which allegedly took place on 23.12.2023. The prosecutrix has alleged that the petitioner, who is her brother-in-law (*bahnoi*), came to their house and stayed there for two days. When she was mopping her house, the petitioner misbehaved with her and started teasing her, to which, she protested. However, the petitioner used caste-based abuses and ran away from the spot.

8. Firstly, it has been observed that the litigation *inter se* the petitioner and his wife, relied upon by the petitioner, is subsequent to the registration of the present FIR. The civil suit for declaration filed by the petitioner pertains to the year 2024. Even the divorce petition as well as the petition seeking maintenance filed by the wife of the petitioner is of the year 2024. The effect of the subsequent litigation would be a matter of trial.

9. The Hon'ble Apex Court, in “Kaptan Singh vs. The State of Uttar Pradesh and others”; 2021 (9) SCC 35, has observed that after the registration of the FIR, when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of investigation of inquiry, at this stage, the Court invoking the proceedings under Section 482 Cr.P.C., is not required to go into the merits of the allegations and/or enter into the merits of the case, as if the High Court is exercising the appellate, jurisdiction and/or conducting the trial. The observations by the Hon'ble Apex Court as under:-

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9.1 At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 Cr.P.C. has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 of IPC. It is required to be noted



that when the High Court in exercise of powers under Section 482 Cr.P.C., 1973 quashed the criminal proceedings, by the time the Investigating Officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the Learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 of IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. If the petition under Section 482 Cr.P.C. 1973 was at the stage of FIR in that case the allegations in the FIR/Complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in the case of Dineshbhai Chandubhai Patel (Supra) in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the Investigating agency nor can exercise the powers like an Appellate Court. It is further observed and held that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the Investigating Authority at such stage to probe and then of the Court to examine questions once the charge-sheet is filed along with such



material as to how far and to what extent reliance can be placed on such material.

(Emphasis Supplied)

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10. The Hon’ble Apex Court, in “*Dineshchai Chandubhai Patel vs. State of Gujarat and others; 2018 (1) SCC (Criminal) 683*”; also observed that while examining the legality of an FIR, the High Court could not appreciate the evidence nor could draw its inferences from the contents of the FIR and the material relied upon. More so, when the material relied upon was disputed by the complainant *visa-se-versa*. It has been further observed that in such a situation, it becomes the job of the investigating authority, at such stage, to prove and then, of the Court to examine the questions once the charge-sheet is filed along with such material as to how far and to what extent, reliance can be placed on such material.

11. Keeping in view the aforesaid facts and circumstances, the case in hand requires the appreciation of documents i.e. written agreement dated 07.11.2002 (Annexure P-2), the application alleged to have been submitted by the petitioner to Superintendent of Police, Fatehabad (Annexure P-3), the application submitted to the Deputy Superintendent of Police, Hisar (Annexure P-4), the civil suit which was filed subsequent to the registration of the FIR by the petitioner against his wife seeking declaration of ownership (Annexure P-5), the application filed by the wife of the petitioner and his children under Section 125 Cr.P.C. seeking grant of maintenance (Annexure P-6) and the divorce petition filed by the wife of the petitioner (Annexure P-7) *vis-a-vis* the version of the prosecutrix. The same is a matter of trial.



12. Keeping in view the facts and circumstances of the case and also in view of the ratio of the decision of the Hon'ble Apex Court in the case of Kaptan Singh (supra) and Dineshhai Chandubhai Patel (supra), no ground is made out for quashing of the FIR and the subsequent proceedings arising therefrom, on the basis of the aforesaid documents, at this stage.

13. Consequently, the present petition stands dismissed.

14. Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

15. However, the petitioner would be at a liberty to raise all such pleas during the trial.

16. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

07th November 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No