

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

**CRM-M-60921-2024
Date of Decision: 04.12.2024**

ANIL

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.M.S Sharma, Advocate
For the petitioner.

Mr. B.S.Virk, Sr. DAG, Haryana

SANDEEP MOUDGIL, J

1. The petitioner, in this petition filed under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023, has prayed for quashing of FIR No.323 dated 11.09.2024, Annexure P-10, under Section 506 of the Indian Penal Code registered at Police Station Khawaja, Faridabad with all its subsequent proceedings arising therefrom.

2. It is argued on behalf of the petitioner by his counsel that the petitioner has been falsely implicated in the present case as the petitioner has not committed any offence, as alleged. The petitioner is innocent but even then, the police, in connivance with complainant, had repeatedly called the petitioner to the police station and threatened him more than twenty times. Thereafter, through unknown persons, petitioner have received threats.

3. He further contends that it is during the identification of the plot, the plot was marked by Assistant Controller, Rohtak, on 29.05.2024 and then it was found that Mrs.Usha and Gangaram(vendors) had only 700 yards of land instead of 1375 square yards, on which petitioner constructed boundary walls and gates in January, 2024. The decision of the Assistant Collector shows that Ganga Ram and his wife Usha had prior knowledge of the acquisition before executing the Agreement to Sell dated 27.10.2023 that's why they handed over the actual physical possession of 700 square yards of land in January, 2024.Despite that Ashish Sharma, the son of Gangaram and Mrs.Usha sent a notice to the petitioner's mother for making balance payment and thereafter, the mother of petitioner filed Civil Suit (Civil Suit No.702 of 2024) before the Civil Court at Rohtak, against Gangaram and others. Thus, the matter is of civil nature and matter being pending before the Civil Court, present FIR, with all its subsequent proceedings, is liable to be quashed.

4. Notice of motion.

5. On the asking of the Court, Mr.B.S.Virk, Senior Deputy Advocate General, Haryana, who is present in Court accepts notice on behalf of the State of Haryana and submitted that there are serious allegations of threatening from the petitioner to the complainant – Ashish Sharma son of Ganga Ram on mobile phone for causing grievous hurt to him (the complainant) and also of demand of ransom. Therefore, the present petition is liable to be dismissed.

6. Heard both the sides and case file also perused with their able assistance.

7. A perusal of the complainant version in FIR shows that the allegations against the petitioner are very specific and it is also alleged by the complainant that he disconnected the WhatsApp phone call of the petitioner in the

first instance but the petitioner continued to call him time and again but he did not pick up his calls whereafter the petitioner made a normal call to him on his number and behaved very rudely and also used abusive language and also threatened to break his spine, harassing him, repeatedly demanding black money amount, meaning thereby, demanding ransom from him in the end. This shows that the petitioner has threatened the complainant of dire consequences of grievous hurt. The conduct of the petitioner can only be ascertained in the trial court along with the evidence and this court finds no reason to adjudicate on the questions which are to be tried by the lower court.

8. A two Judge bench of the Hon'ble Supreme Court “ 'HMT Watches Limited vs M.A. Abida' (2015) 11 SCC 776” has held that inherent powers under Section 482 of the Cr.P.C. cannot be extended for determining question of facts. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law.

9. The inherent power should not be exercised to stifle a legitimate prosecution. High Court being the highest Court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material.

10. Hence, keeping in view the gravity and seriousness of the allegations against the present petitioner, this Court does not find it to be a fit case to accept the prayer of the petitioner to quash FIR, Annexure P-10.



11. Resultantly, the present petition fails being without any merit and substance and, accordingly, stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

04.12.2024
anuradha/poonam negi(v)

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