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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 849/2024 & CRL.M.A. 7934/2024
PAWAN PANDEY Petitioner

Through: Mr. Shivam Sharma & Mr.
Ranjeet Kumar, Advs.

versus

STATE OF NCT OF DELHI Respondent

Through: Mr. Amol Sinha, ASC for
the State (Crl.) for the
State with Mr. Kshitiz
Garg, Mr. Ashvini Kumar
& Ms. Chavi Lazarus,
Advs.

SI Naveen Dahiya, PS-
CI/Special Cell

SI Mahesh Kumar, PS-
IFSO/ Special Cell

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **13.03.2024**

1. The present petitions are filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR No. 253/2023 dated 30.09.2023 registered at Police Station Special Cell for offence under Sections 420 of the Indian Penal Code, 1860 ('IPC').

2. Briefly stated, the facts relevant for adjudication of the present petition, are as under:

2.1 The FIR was registered on a complaint made by Paras Nath Verma, Inspector for Commissioner of Police Law & Order, Delhi alleging that the petitioner has dishonestly stated in the representation made by him to the DCP



Special Cell, Delhi Police that the learned District Judge, Ghaziabad has ordered to provide Y+ security to the applicant owing to the alleged imminent and probable threats.

2.2 It is alleged that the petitioner has deliberately concealed the fact that the learned District Judge, Ghaziabad has not recommended Home Secretary, Government of India/ Commissioner of Police to provide Y+ security of police but had only forwarded the request of the petitioner for necessary action, and the security cover provided to the petitioner was withdrawn immediately at the time. It is alleged that the threat assessment of the petitioner was pending with the DCP/Special Cell, Delhi Police.

2.3 The petitioner was arrested in the present case on 30.09.2023 and was enlarged on bail subsequently by order dated 16.10.2023 passed by the learned CMM, Patiala House Courts.

3. The learned counsel for the petitioner submits that the information received under the RTI Act, 2005 with regard to his application, clearly disclosed that the security was provided to the petitioner on the verbal direction of the Senior Officers and, therefore no offence under Section 420 of the IPC is made out.

4. He submits that the FIR has been registered only with the intention to harass and humiliate the petitioner and, therefore, the present FIR deserves to be quashed.

5. *Per contra*, the learned Additional Standing Counsel for the State submits that the petitioner has cheated and dishonestly induced the police officials by falsely stating in the representation that it was directed by the learned District Judge, Ghaziabad to provide the petitioner with Y+ security thereby,



causing wrongful loss to the government treasury.

6. It is trite law that the inherent powers under Section 482 of the CrPC are to be exercised sparingly and only where the allegations made in the complaint/FIR, even if taken at the face value, do not *prima facie* disclose the commission of offence.

7. The Hon'ble Apex Court in ***Neeharika Infrastructure v state of Maharashtra*** : 2021 SCC OnLine 315, has culled out the principles that govern the law on quashing of FIR under Section 482 of the CrPC and held as under

“13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in Khwaja Nazir Ahmad [King Emperor v. Khwaja Nazir Ahmad, 1944 SCC OnLine PC 29 : (1943-44) 71 IA 203 : AIR 1945 PC 18] , the following principles of law emerge:

13.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences.

13.2. Courts would not thwart any investigation into the cognizable offences.

13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on.

13.4. The power of quashing should be exercised sparingly with circumspection, in the “rarest of rare cases”. (The rarest of rare cases standard in its application for quashing under Section 482CrPC is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court.)

13.5. While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

13.6. Criminal proceedings ought not to be scuttled at the initial stage.

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.

13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two



specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482CrPC.

13.9. The functions of the judiciary and the police are complementary, not overlapping.

13.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

13.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

13.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

13.13. The power under Section 482CrPC is very wide, but conferment of wide power requires the Court to be cautious. It casts an onerous and more diligent duty on the Court.

13.14. However, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , has the jurisdiction to quash the FIR/complaint.

13.15. When a prayer for quashing the FIR is made by the alleged accused, the Court when it exercises the power under Section



482CrPC, only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

8. Recently, the Hon’ble Apex Court in the case of ***Enforcement Directorate v. Niraj Tyagi : 2024 SCC OnLine SC 134***, has emphasized that the quashing of an FIR should be an exception rather than an ordinary rule and held as under :

“20. In our opinion, it's a matter of serious concern that despite the legal position settled by this Court in catena of decisions, the High Court has passed the impugned orders staying the investigations of the FIRs and ECIR in question in utter disregard of the said settled legal position. Without undermining the powers of the High Court under Section 482 of Cr. P.C. to quash the proceedings if the allegations made in the FIR or complaint prima facie do not constitute any offence against the accused, or if the criminal proceedings are found to be manifestly malafide or malicious, instituted with ulterior motive etc., we are of the opinion that the High Court could not have stayed the investigations and restrained the investigating agencies from investigating into the cognizable offences as alleged in the FIRs and the ECIR, particularly when the investigations were at a very nascent stage. It hardly needs to be reiterated that the inherent powers under Section 482 of Cr. P.C. do not confer any arbitrary jurisdiction on the High Court to act according to whims or caprice. The statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. In a way, by passing such orders of staying the investigations and restraining the investigating agencies from taking any coercive measure against the accused pending the petitions under Section 482Cr. P.C.....”

(Emphasis Supplied)

9. In order to ascertain the veracity of contentions made by the learned counsel for the petitioner, it is imperative to firstly examine whether the relevant ingredients of the alleged offence, is *prima facie* made out. The relevant sections read as follows :

“420. Cheating and dishonestly inducing delivery of property.



Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

10. Therefore, to constitute an offence under Section 420 of the IPC, the necessary ingredient required to be alleged is the dishonest inducement by an accused for obtaining wrongful gain at the expense of others. In the present case, it is averred that the petitioner has cheated and dishonestly induced police officials by falsely stating in the representation made by him that it was directed by the learned District Judge, Ghaziabad to provide the petitioner with Y+ security thereby, causing wrongful loss to the government treasury.

11. It is not denied that the learned District Judge, Ghaziabad, had only forwarded the application of the petitioner seeking security in order to take necessary steps as per law and relevant rules.

12. It is also an admitted case that the petitioner had, thereafter, written a letter to the Special Commissioner of Police, Law and Order, Delhi Police, New Delhi, stating that the learned District Judge, Ghaziabad has directed the police authorities to provide Y+ security. The State acted pursuant to the alleged direction of the learned District Judge as stated by the petitioner and temporarily provided Y+ security to the petitioner.

13. The allegation, in such circumstances, that the security was provided on being deceived by the letter written by the petitioner, cannot be held, at this stage, to be frivolous and without any basis.

14. As noted above, the Police has a statutory right and duty to



investigate into a cognizable offence. Providing security to the petitioner on being deceived causes wrongful loss to the exchequer and is a cognizable offence.

15. The Police has statutory right and duty to investigate into all aspects of the cognizable offence as alleged. The investigation is at a nascent stage and the Court while exercising power under Section 482 of the CrPC ought not to thwart an investigation.

16. When the allegations as noted in the FIR, discloses the commission of cognizable offence, the Court is not required to consider on merits, whether the allegations make out a cognizable offence or not at the initial stage and the Court has to permit the investigating agency to investigate.

17. In view of the above facts and discussions and the material placed on record, this Court does not find it a fit case for quashing of the FIR No. 253/2023.

18. Needless to say, the petitioner will be at liberty to raise all contentions before the learned Trial Court at an appropriate stage which shall be dealt with as per law.

19. In view of the above, the present petition stands dismissed along with pending application.

AMIT MAHAJAN, J

MARCH 13, 2024

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