



2024:DHC:6866



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

Date of decision: 28th AUGUST, 2024

IN THE MATTER OF:

+ **CRL.M.C. 2601/2022**

PRADEEP SINGH SANGWAN

.....Petitioner

Through: Mr. Rakesh Chahar, Ms. Smritee Relan, Ms. Neha Rishi and Mr. V. Renganathan, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Ms. Richa Dhawan, APP for the State.
Mr. L. N. Rao, Mr. Akshay Sachdeva, Mr. S. R. Malik and Mr. Rubal Mongia, Advocates for R-2.
SI Sudeep, PS Parliament Street, New Delhi.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court by filing the instant petition for quashing FIR No. 72/2018 dated 30.07.2018 registered at Police Station Parliament Street for an offence under Section 420 IPC.
2. A perusal of the material on record shows that the said FIR has been lodged pursuant to a direction passed by the learned Metropolitan Magistrate in an application under Section 156(3) CrPC bearing Ct. Case No.9797/2018 filed by the Complainant/Respondent No.2 wherein the Police was directed to register an FIR. The FIR has been registered for the offences of cheating and misappropriation by the accused/Petitioner herein.



3. The Complainant/Respondent No.2 states that she is a well reputed business person dealing in real estate etc. It is stated that in the year 2008, the Complainant/Respondent No.2 was looking for a piece of land in and around Rishikesh, Uttarakhand and she came in contact with the Petitioner herein through another property dealer Sunil Khandelwal having office near Laxman Jhulla, Rishikesh.
4. It is stated in April, 2008 the Petitioner herein called the Complainant to meet him at MPs Flat No.18, Dr.Rajendra Prasad Road, New Delhi. The Complainant was informed that the father of the accused/Petitioner herein, namely, Kishan Singh Sangwan, is a sitting Member of Parliament and he also claimed to be a landlord in Haridwar, Uttarakhand.
5. It is stated that the Petitioner herein informed the Complainant that he is an absolute owner of a piece of land admeasuring 728 sq. yards situated at Khasra Nos. 580 to 590, 601, 603 to 620, Village Ghughyani Talli Pargana, Tehsil Narender Nagar, District Pauri Garhwal, Uttarakhand and he intends to sell it at a reasonable price.
6. It is stated that a photocopy of the sale deed of the said land executed by one Sunder Singh of Village Ghughtyani in his name. It is stated that when the Complainant asked the Petitioner to show the original sale deed of the land confirming the ownership, the Complainant was assured that the original sale deed would be shown at the time of executing sale agreement. It is stated that the Complainant was assured that the land is free from all encumbrances. Believing the statements of the Petitioner to be true, the Complainant agreed to purchase the said land and the total price was calculated at Rs.60,42,400/-.
7. It is stated that an Agreement to Sell was to be executed between both



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of them on demand of Rs.10 lakhs to the Petitioner. A sum of Rs.8 lakh was paid by Demand Draft No. 019728 drawn on Bank of India, Chitranjan Park, New Delhi which was prepared in the name of Pradeep Singh Sangwan, i.e., the Petitioner herein on 29.05.2008 from the account of the Complainant which was handed over to him on the same day at 18, M.P. Flats, New Delhi in the presence of the Complainant's accountant one B K Biswas. It is stated that the balance payment was to be paid by way of cash at the time of signing the Agreement to Sell. It is stated that on 30.05.2008, the Complainant along with her manager went to Rishikesh on the invitation of the Petitioner herein where an Agreement to Sell was drafted in Hindi and the balance amount of Rs.2 lakh was paid to the Petitioner in cash making the total payment to Rs.10 lakh.

8. It is stated that when the Complainant asked the Petitioner to show the original sale deed of the said land in his name but the Petitioner herein did not show the original sale deed. It is stated that the Complainant got suspicious and when she made enquiries, she came to know that the Petitioner herein is not the exclusive owner and the land is in the name of two persons in addition to the Petitioner herein and there are two more co-owners of the land, namely, one Satyender Kumar S/o Lal Singh, one Pradeep Kumar S/o Kanwar Sain and the Petitioner herein. Stating that the property has been fraudulently sold, an FIR was registered against the Petitioner on the complaint by the Complainant made before the learned Magistrate in an application under Section 156(3) CrPC.

9. On completing the investigation, chargesheet has been filed stating that the case under Section 420 IPC is made against the Petitioner herein. It is this FIR which sought to be quashed in the present petition.



10. Notice was issued in the matter on 27.05.2022 and by the said order, this Court granted time to the State to file the Status Report. The Petitioner was directed to hand over his title documents to the Investigating Officer, who was directed to verify the same so as to include it in the Status Report.

11. Status Report was filed on 09.09.2022. It was informed to this Court by the Petitioner that the co-owners are with him and in case Respondent No.2 performs her obligations, the Petitioner will get the signatures of the other co-owners, which has duly been recorded in Paragraph 5 of the Agreement to Sell dated 30.05.2008.

12. Learned Counsel for the Petitioner draws the attention of this Court to Paragraph 3 of the Status Report to contend that land does belong to the Petitioner herein and two other persons, whose signatures can be obtained by the Petitioner. Paragraph 3 and 4 of the Status Report is reproduced as under:-

“3. That, a notice U/s 91 Cr.P.C. was served upon Tehsildar Narender Nagar, Tihri Garhwal, Uttrakhand to verify the ownership of the property in question. A reply was received to the said notice, wherein the Tehsildar stated that as per records account number - 09 and 47 in respectively of Khasra No. 601 and 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620 are total 0.301 Hectares (2310 square meters, 2760 square yards) of Village Ghughityani Talli Patti Dhamandsun Tehsil Narender Nagar, Distt Tehri Garhwal, Uttrakhand is in the name of joint owners. Only Khasra No. 580 (.006 Hectare) is in the name of Yogender Mishra 8/0 Sh. Prabhu Dayal out of which he sold the land measuring .0046 Hectar to Smt. Sheela Mishra W/o Yogender Mishra. Khasra number is 618 of 0.010 Hectares of village Ghughityani



Account number 12, is in the name of the Uttarakhand Government Buzer.

4. That during the interrogation, the accused Mr. Pradeep Singh s/o Sh. Kishan Singh told that on 15/04/2006 he along with his partners Satender Kumar and Pradeep Kumar @ Praveen Kumar purchased a piece of Land 728 Square(608.92 square meters) i.e Khasra no.601 and 580, 581, 582, 583, 584, 585, 586, 587, 588, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 619, 620 near Laxman Jhula, Uttarakhand from one Mr. Sunder Singh and Mr. Jot Singh s/o Sh. Jeet and Bachhan Singh s/o Jitar Singh r/o Village Ghughtyani, Tehsil Pargana, Narender Nagar, District Tehri, Garhwal, Uttarakhand.”

13. Learned Counsel for the Petitioner also draws the attention of this Court to the Agreement to Sell dated 30.05.2008 and more particularly to Paragraph 5 of the Agreement to Sell wherein the Petitioner has stated that it is his responsibility to get the signatures of the co-ledgers at the time of the execution of the sale deed and he takes the responsibility for this. He, therefore, states that there was no concealment of any kind and the FIR ought to be quashed. Learned Counsel for the Petitioner also contends that only Khasra No. 618 is in the name of the Uttarakhand Government and Khasra No. 618 is not a part of the Agreement to Sell, and therefore, the Petitioner has not agreed to sell any land which does not belong to the Petitioner.

14. *Per contra*, learned APP for the State and learned Counsel for the Complainant contends that the Petitioner had assured the Complainant that he is the absolute owner of the property.

15. Learned Counsel for the Respondent/Complainant states that the



Petitioner has not shown the originals sale deeds to the Complainant and the Petitioner was prepared to handover the title deeds only in this Court. He states that the FIR against the Petitioner cannot be quashed.

16. The law regarding quashing of the FIR has been laid down in a catena of judgments. The Apex Court in Neeharika Infrastructure Private Limited v. State of Maharashtra & Ors., (2021) 19 SCC 401, has culled out the entire law till the time of passing of the judgment as to when an FIR can be quashed. Paragraph 10 of the said judgment reads as under:-

“10. While considering the aforesaid issue, law on the exercise of powers by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India to quash the FIR/complaint and the parameters for exercise of such powers and scope and ambit of the power by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India are required to be referred to as the very parameters which are required to be applied while quashing the FIR will also be applicable while granting interim stay/protection.

*10.1. The first case on the point which is required to be noticed is the decision of this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] . While dealing with the inherent powers of the High Court under Section 561-A of the earlier Code (which is in pari materia with Section 482 of the Code), it is observed and held that the inherent powers of the High Court under Section 561 of the earlier Code cannot be exercised in regard to the matters specifically covered by the other provisions of the Code; **the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends***



of justice; ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. After observing this, thereafter this Court then carved out some exceptions to the abovestated rule, which are as under : (AIR p. 866)

“(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged. Absence of the requisite sanction may, for instance, furnish cases under this category.

(ii) Where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the



function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.” (emphasis supplied)

10.2. In *Kurukshetra University [Kurukshetra University v. State of Haryana, (1977) 4 SCC 451 : 1977 SCC (Cri) 613]*, this Court observed and held that inherent powers under Section 482CrPC do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice; **that statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases.** In the case before this Court, the High Court quashed the first information report filed by the Kurukshetra University through Warden and that too without issuing notice to the University, in exercise of inherent powers under Section 482CrPC. This Court noticed and observed that the High Court was not justified in quashing the FIR when the police had not even commenced investigation into the complaint filed by the Warden of the University and no proceedings were at all pending before any Court in pursuance of the FIR.

10.3. Then comes the celebrated decision of this Court in *Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]*. In the said decision, this Court considered in detail the scope of the High Court powers under Section 482CrPC and/or Article 226 of the Constitution of India to quash the FIR and referred to several judicial precedents and held that the High Court should not embark upon an inquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same



time, this Court identified the following cases in which FIR/complaint can be quashed:

“102. (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is



instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10.4. *In Golconda Linga Swamy [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , after considering the decisions of 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] and other decisions on the exercise of inherent powers by the High Court under Section 482CrPC, in paras 5, 7 and 8, it is observed and held as under : (Golconda Linga Swamy case [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC pp. 526-29)*

“5. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely : (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor



desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquid aliique concedit, conceditur et id sine quo res ipsa esse non potest (when the law gives a person anything, it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent such abuse. It would be an abuse of the process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends



of justice. When no offence is disclosed by the complaint, the Court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. ...

8. As noted above, the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great



caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The 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. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. [See Janata Dal v. H.S. Chowdhary [Janata Dal v. H.S. Chowdhary, (1992) 4 SCC 305 : 1993 SCC (Cri) 36] and Raghubir Saran v. State of Bihar [Raghubir Saran v. State of Bihar, 1963 SCC OnLine SC 102 : AIR 1964 SC 1].] It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises, arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognisance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however,



necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint/FIR has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant or disclosed in the FIR that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint/FIR is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceeding.”

10.5. *In Zandu Pharmaceutical Works Ltd. [Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque, (2005) 1 SCC 122 : 2005 SCC (Cri) 283] , in para 11, this Court has observed and held as under : (SCC pp. 129-30)*

“11. the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The 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. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. **It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with.** In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then*



the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings.”

10.6. *In Sanapareddy Maheedhar Seshagiri [Sanapareddy Maheedhar Seshagiri v. State of A.P., (2007) 13 SCC 165 : (2009) 1 SCC (Cri) 170] , in para 31, it is observed and held as under : (SCC p. 180)*

“31. A careful reading of the abovenoted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that FIR does not disclose commission of any offence or that the allegations contained in FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing FIR or complaint or restraining the competent authority from investigating the allegations contained in FIR or



complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in FIR or complaint disclose commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power under Section 482CrPC.”

10.7. *In Arun Gulab Gawali [State of Maharashtra v. Arun Gulab Gawali, (2010) 9 SCC 701 : (2010) 3 SCC (Cri) 1459] , this Court set aside the order [Arun Gulab Gawali v. State of Maharashtra, 2006 SCC OnLine Bom 1524] passed by the High Court quashing the criminal complaint/FIR which was even filed by the complainant. In the case before this Court, prayer for quashing the FIR before the High Court was by the complainant himself and the High Court quashed the FIR/complaint in exercise of the powers under Section 482CrPC. Quashing and setting aside the judgment and order passed by the High Court quashing the FIR, this Court in paras 13 and 27 to 29 has observed as*



under : (Arun Gulab Gawali case [State of Maharashtra v. Arun Gulab Gawali, (2010) 9 SCC 701 : (2010) 3 SCC (Cri) 1459] , SCC pp. 706 & 710)

“13. The power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases and the court cannot be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of allegations made in the FIR/complaint, unless the allegations are so patently absurd and inherently improbable so that no prudent person can ever reach such a conclusion. The extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice. However, the Court, under its inherent powers, can neither intervene at an uncalled for stage nor can it “soft-pedal the course of justice” at a crucial stage of investigation/proceedings. The provisions of Articles 226, 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 (hereinafter called as “CrPC”) are a device to advance justice and not to frustrate it. The power of judicial review is discretionary, however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that stream of administration of justice remains clean and pure. However, there are no limits of power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers. (Vide State of W.B. v. Swapan Kumar Guha [State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 561 : 1982 SCC (Cri) 283] , Pepsi Foods Ltd. v. Special Judicial Magistrate [Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749 : 1998 SCC (Cri) 1400] , G. Sagar Suri v. State of U.P. [G.



Sagar Suri v. State of U.P., (2000) 2 SCC 636 : 2000 SCC (Cri) 513] and Ajay Mitra v. State of M.P. [Ajay Mitra v. State of M.P., (2003) 3 SCC 11 : 2003 SCC (Cri) 703])

27. The High Court proceeded [Arun Gulab Gawali v. State of Maharashtra, 2006 SCC OnLine Bom 1524] on the perception that as the complainant himself was not supporting the complaint, he would not support the case of the prosecution and there would be no chance of conviction, thus the trial itself would be a futile exercise. Quashing of FIR/complaint on such a ground cannot be held to be justified in law. Ordinarily, the Court of Session is empowered to discharge an accused under Section 227CrPC even before initiating the trial. The accused can, therefore, move the trial court itself for such a relief and the trial court would be in a better position to analyse and pass an order as it is possessed of all the powers and the material to do so. It is, therefore, not necessary to invoke the jurisdiction under Section 482CrPC for the quashing of a prosecution in such a case. The reliance on affidavits by the High Court would be a weak, hazy and unreliable source for adjudication on the fate of a trial. The presumption that an accused would never be convicted on the material available is too risky a proposition to be accepted readily, particularly in heinous offences like extortion.

28. A claim founded on a denial by the complainant even before the trial commences coupled with an allegation that the police had compelled the lodging of a false FIR, is a matter which requires further investigation as the charge is levelled against the



police. If the prosecution is quashed, then neither the trial court nor the investigating agency has any opportunity to go into this question, which may require consideration. The State is the prosecutor and all prosecution is the social and legal responsibility of the State. An offence committed is a crime against society and not against the victim alone. The victim under undue pressure or influence of the accused or under any threat or compulsion may resile back but that would not absolve the State from bringing the accused to book, who has committed an offence and has violated the law of the land.

29. Thus, while exercising such power the Court has to act cautiously before proceeding to quash a prosecution in respect of an offence which hits and affects the society at large. It should be a case where no other view is possible nor any investigation or inquiry is further required. There cannot be a general proposition of law, so as to fit in as a straitjacket formula for the exercise of such power. Each case will have to be judged on its own merit and the facts warranting exercise of such power. More so, it was not a case of civil nature where there could be a possibility of compromise or involving an offence which may be compoundable under Section 320CrPC, where the Court could apply the ratio of Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692 : 1988 SCC (Cri) 234] .”

(emphasis in original)

10.8. Thereafter in a catena of decisions, this Court has reiterated the parameters for exercise of inherent powers under Section 482CrPC and/or under Article



226 of the Constitution of India in the matter of quashing the FIR/complaint.”

(emphasis supplied)

17. A perusal of all the judgments which have been discussed in the Neeharika Infrastructure (supra) points out that if the allegations made in the first information report or the complaint *prima facie* constitute an offence, then FIR should not ordinarily be quashed. All the judgments also point out that the exercise of power under Section 482 CrPC of the Court is to be exercised i) to give effect to the order under the Code ii) to prevent abuse of the process of Court iii) to otherwise secure the ends of justice.

18. It is now well settled that the power of quashing should be exercised sparingly and that too in the rarest of rare cases and courts must not embark upon enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR unless the allegations in the FIR are so patently absurd and inherently improbable so that no prudent person can reach such a conclusion.

19. A perusal of the Agreement to Sell which has been entered into between the parties and which have been produced in Court shows that in the recital, the Petitioner has shown himself to be the owner of the property. The portion of the recital is shown as under:-

“Whereas the first party is the sole owner and in possession of the property described at the end of this agreement to sale, and the first party has full right to sell this property and as the second party has placed a proposal to purchase this property before the first party and the first party has accepted the offer to sell the property mentioned at the end of the agreement to sale.



And Whereas the ownership of the first party in relation to this property is completely clear and this property has not been kept anywhere in the form of mortgage or loan, nor is any suit pending in any court in respect of this property and the first party has entered into an agreement with the second party to sell this property voluntarily.”

20. Though Paragraph 5 does show that it is the responsibility of the first party to get the signatures of the co-ledgers but the recital does indicate that what was told to the Complainant was that the Petitioner is the absolute owner of the property. A perusal of the chargesheet indicates that the Petitioner is not the owner of the property but the property was purchased by the Petitioner/Pradeep Singh Sangwan along with his partner Satyender Kumar and Pradeep Kumar. This in itself is sufficient to show that the allegation in the FIR is correct. It is not the case of the Petitioner that he showed the original sale deeds of the property to the Complainant at any point of time.

21. Material on record does indicate that the father of the Petitioner at the relevant time was the Member of Parliament, the FIR was not registered and therefore the Complainant had to knock the doors of the Court and FIR was registered on an application filed by the Complainant under Section 156(3) CrPC. The investigation does reveal that the Petitioner has represented himself as the absolute owner of the property whereas he is not the absolute owner of the property. A perusal of the chargesheet also points to this aspect. The chargesheet also indicates that somehow Rs.10 lakhs have been given to the Petitioner out of which Rs.2 lakhs were given in cash but a sum of Rs.8 lakhs have been given in the form of Demand Draft by the



Complainant from her account to the Petitioner.

22. The statement given by the Petitioner that he will get the signatures of other persons if the Complainant performs her obligation after the chargesheet was filed cannot be taken as a ground to quash the FIR at this juncture. It is to be seen as to whether the Petitioner intended to sell the property to the Complainant as if the property belonged to him at the time when the Agreement to Sell was entered into between the parties and till the complaint was filed leading to the filing of the chargesheet. This Court while exercising its jurisdiction under Section 482 of the CrPC cannot try to close the matter by accepting the *ipse dixit* of the Petitioner during the proceedings that he will get the signatures of co-sharers that the Petitioner is able to proceed ahead with the sale deed. Resultantly, this Court is not inclined to exercise its powers under Section 482 CrPC to quash the instant FIR.

23. It is made clear that all the observations made by this Court are limited to the aspect as to whether FIR can be quashed or not. It is open for the Petitioner to raise all the arguments at the time of framing of charges or if the Parties agree to compound the offence.

24. With these observations, the petition is dismissed along, with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 28, 2024

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