



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

%

Date of Decision: 08.04.2024

+

CRL.M.C. 4181/2023 & CRL. M.A. 15683/2023

RAJAN DUTTA

..... Petitioner

Through: Mr. Vipul Saini and Ms. Yuganshi
Singh, Advocates.

Versus

THE STATE OF NCT OF DELHI THROUGH
SHO PS HAZRAT NIZAMUDDIN & ANR.

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Naveen PS H.N.Din.
Mr. Mohit Mathur, Senior Advocate
with Mr. Mritunjay K. Singh, Mr.
Ruchir Batra and Mr. Sahel Rishab,
Advocates for respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks quashing of the FIR No.117/2018 registered under Sections 354/509/506 IPC at PS Hazrat Nizamuddin and all proceedings emanating therefrom.
2. As per the facts available on record, at the time of registration of FIR, the petitioner as well as the respondent No.2/complainant were residing in the same building. While the petitioner was residing on the third floor, the complainant was residing at ground floor. The present FIR was registered in the context of an incident, that allegedly took place on 06.05.2018. It was alleged that at about 5.45 pm, while the complainant was sitting with her



husband and children, the petitioner came down from the third floor and started hitting her husband. When she tried to stop the petitioner, he assaulted her using vulgar language and also outraged her modesty by physically hitting her and snatching her phone. The petitioner was enraged as the complainant had requested him to connect the water connection, as he had put a knob, which was restricting the supply of water to their water tanks. Further, when the complainant asked him to sort out the parking issue, the petitioner threatened to kill her as well as her husband. The complaint was followed by recording of complainant's statement under Section 164 Cr.P.C and MLCs of both the complainant and her husband were prepared. The FIR came to be registered under Sections 354/509/506 IPC, however, upon completion of investigation, Sections 323 and 452 IPC were also added in the chargesheet.

3. The petitioner has sought quashing of the FIR on the ground that the bone of contention between the parties relates to supply of water and parking issue as the petitioner and the complainant are resident of the same building.

4. It is contended that a reading of the complaint would show that there was no intention of the petitioner to commit the offence. Insofar as offence under Section 354 IPC is concerned, it is contended that only bald averments have been levelled without there being any specific details. It is stated that the petitioner is aged around 57 years and his own daughter lives in the same property and as such there could not have been any intention to commit the said offence. Lastly, it is contended that there was delay of about 11 days in recording of statement under Section 164 Cr.P.C and that there was a delay in preparation of MLCs. In support of his contentions, learned counsel for



the petitioner has relied upon the decision in Vineet Kumar & Ors. v. State of Uttar Pradesh and Anr.¹. It is further contended that civil proceedings are pending between the parties.

5. Learned APP for the State, duly assisted by learned Senior Counsel for the complainant has vehemently opposed the petition. It is contended that by stating that the genesis of the complaint lies in water dispute, the petitioner has trivialized the allegations, which are serious in nature.

6. It is contended by learned Senior Counsel for the complainant that petitioner's sister has also filed an application under Section 156 (3) Cr.P.C against complainant's husband. The said case was proceeded as a complaint case, however, proceedings in the said case have been stayed by this Court. Lastly, it is stated that the question of intent is a matter of trial and cannot be seen in the proceedings under Section 482 Cr.P.C.

7. I have heard learned counsel for the parties and also perused the material placed on record.

8. The scope of inherent powers of the High Court under Section 482 Cr.P.C. is well defined. Indisputably, the High Court in exercise of such powers, can pass any order as may be necessary to give effect any order under the Cr.P.C or to prevent the abuse of process of any court or otherwise to secure the ends of justice. The High Court is empowered to quash any criminal proceedings, if it comes to the conclusion that allowing the continuation of the proceedings would be an abuse of the process of the court. In State of Haryana & Ors. v. Bhajan Lal & Ors.², the Supreme Court outlined the guidelines for exercise of such powers in the following

¹ (2017) 13 SCC 369

² 1992 Supp (1) SCC 335



manner:-

“xxx

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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 concerned Act (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 concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide 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.

xxx”

9. In Vineet Kumar (supra), the Supreme Court has reemphasized that though the determination of truthfulness or falsity of allegations pertain to the realm of evidence and the same cannot be judged at the initial stage, however, if from the investigation conducted, it surfaces that the allegations are unfounded and the prosecution of the accused would be an abuse of the process, the High Court would be persuaded to quash the criminal proceedings.

10. At the same time, the Supreme Court has also cautioned that FIR is not an encyclopaedia of the entire facts. The petitioner has relied on serial nos. 5 and 7 of the guidelines enumerated in Bhajan Lal (Supra) and reproduced hereinabove to submit that allegations are absurd in inherently improbable and the complaint is malafide.



11. Examining the contentions in light of the initial complaint as well as statement under Section 164 Cr.P.C, it is noted that the complainant had clearly stated that not only was she physically hit but the petitioner had also outraged her modesty. The petitioner had come down to the place where the complainant was sitting with her family and committed the aforesaid offence. The allegations of injuries to the complainant and her husband are corroborated by the medical examination, which shows that there was an abrasion on the right-hand dorsum of the complainant. The complainant's husband was also medically examined and *NCCT Head, Cx Spine* investigation was conducted. The MLC also records simple injuries on the person of the complainant's husband. The complainant, in her statement given under Section 164 Cr.P.C., has completely supported her initial complaint. She has clearly stated that while hitting her, the petitioner had pushed her at her breast. The allegations by themselves clearly make out a case for the alleged offences and that the falsity of truthfulness of the same would be determined in trial. Notably, though the petitioner has contended that civil proceedings are pending between the parties, a perusal of the civil suit placed on record shows that the same came to be filed in 2020 by complainant's husband whereas the present incident relates to the year 2018.

12. Consequently, the petition fails and the same is accordingly dismissed along with pending application.

13. Needless to state that the observations made hereinabove will not have any influence on the trial.

MANOJ KUMAR OHRI
(JUDGE)

APRIL 8, 2024/rd



2024:DHC:3013



Signature Not Verified

Digitally Signed
By:NIJAMUDDIN ANSARI
Signing Date:16/04/2024
10:25:28

CRL.M.C.4181/2023

Page 7 of 7