



2024:DHC:9863



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

Date of decision: 17th DECEMBER, 2024

IN THE MATTER OF:

+ **CRL.M.C. 6004/2022 & CRL.M.A. 23535/2022**

SONU

.....Petitioner

Through: Mr. S.B. Sharma, Mr. Ramesh Kumar, Mr. Yashwant Gahlat, Mr. Ankit, Ms. Ankita, Ms. Annu Sharma, Mr. Hemant Gahlot, Mr. Jai Narain, Mr. Tushant and Ms. Sudha, Advocates.

versus

STATE (NCT OF DELHI) AND ANR.

.....Respondents

Through: Mr. Shoaib Haider, APP for the State. SI Akash Kumar, PS Bhajan Pura, SI Reena, PS Budh Vihar, SI Pooja, PS New Usmanpur.

+ **CRL.M.C. 3442/2024 & CRL.M.A. 13230/2024**

BHARTI

.....Petitioner

Through: Mr. S.B. Sharma, Mr. Ramesh Kumar, Mr. Yashwant Gahlat, Mr. Ankit, Ms. Ankita, Ms. Annu Sharma, Mr. Hemant Gahlot, Mr. Jai Narain, Mr. Tushant and Ms. Sudha, Advocates.

versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Shoaib Haider, APP for the State. SI Akash Kumar, PS Bhajan Pura, SI Reena, PS Budh Vihar, SI Pooja, PS New Usmanpur.

+ **CRL.M.C. 3446/2024 & CRL.M.A. 13251/2024**

NEETA DEVI

.....Petitioner



2024:DHC:9863



Through: Mr. S.B. Sharma, Mr. Ramesh Kumar, Mr. Yashwant Gahlat, Mr. Ankit, Ms. Ankita, Ms. Annu Sharma, Mr. Hemant Gahlot, Mr. Jai Narain, Mr. Tushant and Ms. Sudha, Advocates.

versus

STATE NCT OF DELHI ANR

.....Respondents

Through: Mr. Shoaib Haider, APP for the State. SI Akash Kumar, PS Bhajan Pura, SI Reena, PS Budh Vihar, SI Pooja, PS New Usmanpur.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. CRL.M.C. 6004/2022 has been filed by the Petitioner seeking quashing of the FIR No.132/2021, dated 14.03.2021, registered at Police Station Bhajan Pura, for offences under Sections 186/353/332/341/354/34 IPC, and proceedings emanating therefrom.
2. CRL.M.C. 3442/2024 has been filed by the Petitioner seeking quashing of the FIR No.132/2021, dated 14.03.2021, registered at Police Station Bhajan Pura, for offences under Sections 186/353/332/341/354/34 IPC, and proceedings emanating therefrom.
3. CRL.M.C. 3446/2024 has been filed by the Petitioner seeking quashing of the FIR No.132/2021, dated 14.03.2021, registered at Police Station Bhajan Pura, for offences under Sections 186/353/332/341/354/34 IPC, and proceedings emanating therefrom.
4. Since all the three Criminal Revision Petitions have been filed for quashing the same FIR, with the consent of the parties, all the three Petitions are being heard and decided by a common Order.
5. The facts, in brief, leading to the present Petition, are that the



2024:DHC:9863



Petitioner in CRL.M.C. 3442/2024 lodged an FIR, being FIR No.833/2020 dated 25.12.2020, registered at Police Station New Usmanpur for offences under Sections 376(2)(n) & 506 IPC, against one Gaurav and several others. In the said FIR, the Petitioner in CRL.M.C. 3442/2024 has alleged that Gaurav committed rape on her on several occasions on the pretext of marriage. Charge-sheet in FIR No.833/2020 was filed on 24.02.2021. Material on record shows that on 14.03.2021, the Respondent No.2 herein, i.e. the Complainant in FIR No.132/2021, who is also the Investigating Officer in FIR No.833/2020, went to the residence of the Petitioners herein to record the statement of the mother of the Complainant in FIR No.833/2020. It is stated that when the Respondent No.2 herein reached the house of the Complainant in FIR No.833/2020, who is the Petitioner in CRL.M.C. 3442/2024, the Respondent No.2 herein found the Petitioners herein in the house. It is stated that on reaching the house of the Petitioners herein, when the Respondent No.2 knocked on the door the Petitioner in CRL.M.C. 3442/2024, who is the Complainant in FIR No.833/2020, came out shouting that her mother is not home and she has gone to the hospital. It is stated that the Petitioner in CRL.M.C. 3442/2024 then stated that no one will give any statement. It is stated that the Petitioner then questioned the Investigating Officer as to with whose permission the charge-sheet has been filed in FIR No.833/2020. It is stated that the Petitioners herein caught hold of the Investigating Officer and prevented her from going out. It is stated that the Petitioners herein manhandled the Investigating Officer and beat her. It is stated that the Investigating Officer somehow managed to reach the door of the house and started thumping the door. It is stated that Constable Parminder, who was standing outside the house heard the thumping and tried to open the gate. It is stated that when



2024:DHC:9863



the gate could not be opened he started shouting. It is further stated that the Petitioner in CRL.M.C. 3446/2024 opened the door and Constable Parminder was able to pull out the Investigating Officer. Medical examination of the Investigating Officer was got done and on the complaint of the Investigating Officer, FIR No.132/2021 was registered against the Petitioners herein.

6. Investigation in FIR No.132/2021 has been concluded and charge-sheet has been filed.

7. The present Petition has been filed by the Petitioners seeking quashing of FIR No.132/2021 and the proceedings emanating therefrom.

8. Learned Counsel for the Petitioner contends that the present FIR has been lodged at the instance of Gaurav, who is the main accused in FIR No.833/2020. He states that the Police came to the house of the Petitioners herein without any information and only to pressurize the Petitioner in CRL.M.C. 3442/2024, who is the complainant in FIR No.833/2020, to settle the matter. He states that appropriate notice had not been given to the mother of the Petitioner to join investigation. He states that the notice informing that the Police is going to visit the house of the Petitioners herein for further investigation was given to the Petitioners only on 13.03.2021 whereas the charge-sheet in FIR No.833/2020 had already been filed on 24.02.2021. It is contended that without proper notice, the Police ought not to have visited the house of the Petitioners herein. Learned Counsel for the Petitioner further states that there is no evidence to show that notice was given to the Petitioners or their mother and the notices which are now placed on record are only the true copies which were never supplied to the Petitioners herein. He also states that the language in the notices which are being served on the Petitioner is extremely derogatory and uncalled for.



2024:DHC:9863



Learned Counsel for the Petitioner further states that the Police is acting in cahoots with the accused in FIR No.833/2020, some of whom are police officers. He further states that the documents are being fudged in the Court and pressure is being put on the Petitioner in CRL.M.C. 3442/2024, who is the Complainant in FIR No.833/2020, and her family to withdraw the case against the accused persons and to settle the matter.

9. Per contra, learned APP for the State points out that the Police Officer has been manhandled by the Petitioners and a respective Police Officer has lodged a complaint against the Petitioners. He states that the charge-sheet has been filed only on the basis of the material on record. He states that the contentions raised by the Petitioners herein in the present Petitions can be raised at the time of framing of charges.

10. Heard the Counsels for the parties and perused the material on record.

11. It is well settled that the High Court must exercise its power under Section 482 Cr.P.C with circumspection. It is well established that the power of quashing should be exercised very sparingly and with circumspection and in rare cases and at the time of quashing an FIR the Court should not embark upon any enquiry as made in the FIR. Way back in 1960 the Apex Court in R.P. Kapur v. State of Punjab, **1960 SCC OnLine SC 21**, has laid down the principle for quashing any criminal proceedings. Relevant portion of the said Judgment reads as under:

"6. Before dealing with the merits of the appeal it is necessary to consider the nature and scope of the inherent power of the High Court under Section 561-A of the Code. The said section saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any court or otherwise to secure the ends of justice. There is no



2024:DHC:9863



doubt that this inherent power cannot be exercised in regard to matters specifically covered by the other provisions of the Code. In the present case the Magistrate before whom the police report has been filed under Section 173 of the Code has yet not applied his mind to the merits of the said report and it may be assumed in favour of the appellant that his request for the quashing of the proceedings is not at the present stage covered by any specific provision of the Code. It is well-established that 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. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction. However, we may indicate some categories of cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There may be cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the Court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise 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



2024:DHC:9863



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. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute offence alleged but there is either no legal evidence adduced in support of the case or 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. Broadly stated that is the nature and scope of the inherent jurisdiction of the High Court under Section 561-A in the matter of quashing criminal proceedings, and that is the effect of the judicial decisions on the point (Vide : In Re : Shripad G. Chandavarkar [AIR 1928 Bom 184] , Jagat Chandra Mozumdar v. Queen Empress [(1899) ILR 26 Cal 786] , Shanker Singh (Dr) v. State of Punjab [(1954) 56 Punjab LR 54] , Nripendra Bhusan Ray v. Gobind Bandhu Majumdar [AIR 1924 Cal 1018] and Ramanathan Chettiyar v. K. Sivarama Subrahmanya Ayyar [ILR 47 Mad 722] ."



2024:DHC:9863



12. The said Judgment has been followed by the Apex Court in Gorige Pentaiah v. State of A.P., (2008) 12 SCC 531, wherein the Apex Court has observed as under:

"12. This Court in a number of cases has laid down the scope and ambit of courts' powers under Section 482 CrPC. Every High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

(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.

Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.

Discussion of decided cases

14. In R.P. Kapur v. State of Punjab [AIR 1960 SC 866] this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings:



2024:DHC:9863



(i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;

(ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge."

13. In State of Odisha v. Pratima Mohanty, (2022) 16 SCC 703, the Apex Court has held as under:

"8.2. It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per the settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482CrPC when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under Section 482CrPC the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482CrPC are very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court."

14. In the present case, the charge-sheet in FIR No.833/2020 was prepared on 20.02.2021 and was filed on 24.02.2020. The charge-sheet was



2024:DHC:9863



filed during the time-line when the main accused was in custody. Material on record shows that just two days before filing of the charge-sheet in FIR No.833/2020, i.e. on 18.02.2020, a notice was given to the Petitioner in CRL.M.C. 3442/2024, who is the Complainant in FIR No.833/2020, asking her to join the investigation for identification of places, preparation of site plans and for preparation to oppose the bail application of Gaurav, who is the main accused in FIR No.833/2020. Notice was given on 18.02.2020 seeking presence of the Petitioner in CRL.M.C. 3442/2024, who is the Complainant in FIR No.833/2020, on 19.02.2020. Material on record indicates that the Petitioner in CRL.M.C. 3442/2024 gave a note stating that she cannot assist in investigation as she has to go to the Hospital. Material on record further shows that another notice dated 12.03.2021 was given to the Petitioner in CRL.M.C. 3442/2024 asking the Petitioner to join investigation. The note on the said notice is purportedly signed by the Petitioner in CRL.M.C. 3442/2024. The note indicates that the Petitioner in CRL.M.C. 3442/2024 had refused to co-operate with the investigation on the ground that the Investigating Officer in FIR No.132/2021 has filed the charge-sheet without proper investigation as out of 21 accused only one person has been arrayed as accused in the charge-sheet. The said note also indicates the grievance of the Petitioner in CRL.M.C. 3442/2024 that a copy of the charge-sheet has not been given to her. The note also indicates that the Investigating Officer in FIR No.833/2021 is not picking up the phone of the Petitioner herein.

15. The case diary, which has been submitted to the Court, indicates that another notice was given to the Petitioner in CRL.M.C. 3442/2024 on 13.03.2021 directing the Petitioner in CRL.M.C. 3442/2024 to join investigation and on the said notice also a similar kind of note had allegedly



2024:DHC:9863



been written by the Petitioner in CRL.M.C. 3442/2024. In the said note the Petitioner in CRL.M.C. 3442/2024 has written that she would be able to come for investigation only on 18.03.2021. In the said note the Petitioner in CRL.M.C. 3442/2024 has also demanded arrest of SI Mamta, the SHO of the concerned Police Station and four others alleging that the SHO is hands in glove with the accused in FIR No.833/2020. Material on record shows that on the very same date another notice was given to the mother of the Petitioners herein regarding recording of her statement. In the said notice also the Petitioner in CRL.M.C. 3442/2024 has given a note stating that her mother would be available on 14.03.2021 at 11:00 AM.

16. It is the contention of the Police that only pursuant to the note given by the Petitioner in CRL.M.C. 3442/2024 in the notice dated 13.03.2021 sent by the Police to the mother of the Petitioners herein asking her to join investigation. The Police went to the house of the Petitioners herein as per the notice. It is pertinent to mention that though it is contended by the learned Counsel for the Petitioner that the notice dated 13.03.2021 directing the mother of the Petitioner in CRL.M.C. 3442/2024 to join investigation was not served on the mother of the Petitioners herein and it was fudged material on record suggests otherwise.

17. The issue as to whether the signature of the Petitioner in CRL.M.C. 3442/2024 in the note on the notice dated 13.03.2021 has been fudged or not is a matter of trial. Material on record also indicates that the Petitioners herein are unhappy with the Investigating Officer in FIR No.833/2020 for the way in which the investigation was being carried out in the said FIR. Dissatisfaction is writ large on the note that has been signed by the Petitioner in CRL.M.C. 3442/2024. However, this does not give a license to the Petitioners to take law in their hands and assault a policeman. The



2024:DHC:9863



statement of the Complainant in the present FIR discloses that offence has been committed by the Petitioners herein. Charge-sheet in the present FIR has been filed. The fact that the Petitioners herein were frustrated with the way in which investigation was being done does not give them the license to act in the manner as alleged in the FIR. It was open to the Petitioners to file a protest Petition in FIR No.833/2020 seeking for change of the Investigating Officer. The fact that the Petitioners were not happy with the way in which investigation was being carried out by the Investigating Officer does not give a license to the Petitioners to misbehave with the Investigating Officer and beat her, as alleged in the FIR No.132/2021.

18. In view of the above, this Court is not inclined to quash FIR No.132/2021 and the proceedings emanating therefrom.

19. The contention of the learned Counsel for the Petitioner that the note appended to the notice dated 13.03.2021, on the basis of which Police went to the house of the Petitioners on 14.03.2021, is fudged, can be ascertained only during trial and if documents have been fudged then law will take its own course against the erring officers but all that can be done only during trial and not at this stage before this Court.

20. In view of the above, the Petitions are dismissed along with the pending application(s), if any.

21. It is made clear that this Court has not made any observations on the merits of the case or on the veracity of the documents filed along with the charge-sheet or on the veracity of FIR No.833/2020.

SUBRAMONIUM PRASAD, J

DECEMBER 17, 2024/Rahul