



\$~17

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

+ **CRL.M.C. 2465/2021**

**KOMAL & ORS.**

..... Petitioners

Through: Mr. Vipin Chaudhary and Mr. Nitish  
Verma, Advocates.

versus

**THE STATE NCT OF DELHI AND ANR.**

..... Respondents

Through: Mr. Ajay Vikram Singh, APP with  
SI Manju, PS: Vasant Kunj South.  
Mr. Jagrati Singh, Adv. for R-5.

**CORAM:**

**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

**ORDER**

%

**20.03.2024**

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for quashing of FIR No. 0464/2021, under Sections 323/341/354/34 IPC, registered at P.S.: Vasant Kunj, Delhi and the proceedings emanating therefrom.
2. In brief, as per the case of prosecution, on receiving PCR calls vide DD No. 60A & 69A dated 19.08.2021 regarding encroachment of property by one person, IO along with staff reached at the spot i.e. Khasra No. 778, Gali No. 6, K Block, Mahipalpur, New Delhi, wherein, it was revealed that there was a property dispute between the parties and a quarrel/scuffle took place between the ladies over the construction on the said property. It was also revealed that Komal Sehrawat, petitioner No.1 had already been taken to the hospital.
3. In the meantime, Tejal, respondent No.5 who is the cousin of



petitioner nos. 1 & 2 along with her grandmother, Santra Devi submitted a hand written complaint against Komal Sehrawat (petitioner No. 1) and others to the higher authorities. It was alleged that her cousins Rohit Sehrawat (petitioner No.2), Akash Verma (petitioner No.3) and Shubham (petitioner No.4) had illegally taken possession of the said property and also misbehaved with her.

**4.** It is further the case of the prosecution that an information vide DD No. 150A, dated 19.08.2021 was also received regarding MLC of Komal Sehrawat. In the MLC, she gave an alleged history of assault by more than six persons namely Neelam, Neeraj, Tejal, Nancy, Santra Devi, Lata, Bhawna, Phoolwati and Indra Devi on 19.08.2021 at about 01:30 PM at K-Block, Gali No. 06, Labour Chowk, Mahipalpur, New Delhi.

**5.** Learned counsel for the petitioners submits that present FIR No. 0464/2021 has been falsely lodged in order to pressurize the petitioners and no such incident occurred as alleged by complainant and petitioners Nos. 2 to 4 were never present at the spot.

**6.** Learned APP for the State submits that as per investigation there appears to be dispute between both the factions, who are closely related to each other over the ownership of the aforesaid property. Further, FIR No. 0461/2021 dated 21.08.2021, under Sections 323/341/506/ 509/34 IPC was registered at P.S.: Vasant Kunj South, New Delhi, on the complaint of Komal Sehrawat against Tejal. Present FIR No. 0464/2021 was thereafter registered under Sections 323/341/354/34 IPC against the petitioners pursuant to complaint of Tejal.

It is also pointed out that chargesheet has also been filed in FIR No. 0461/2021, which was registered on the complaint of petitioner No.1



(Ms. Komal Sehrawat). The investigation in present case is stated to be still pending, wherein, the stand taken on behalf of petitioner Nos. 2 to 4 claiming alibi is under investigation.

7. It is well settled that the power under Section 482 Cr.P.C. may be used if the Court finds that it would amount to abuse of process of Court or the interest of justice so demands that the proceedings may be quashed. The powers under Section 482 Cr.P.C. need to be exercised with care and caution at the initial stage of investigation itself. The test to be applied is whether the uncontroverted allegations as made from the record *prima facie* establish the offence or not; or if the allegations are patently absurd and inherently improbable that no prudent person can reach such a conclusion or where the ingredients of criminal offence are not made out. No meticulous examination can be carried out when even the charge-sheet has not been filed. This Court is of the considered opinion that at the threshold the investigation cannot be throttled when the plea of alibi is also under investigation by police.

8. Since the matter is still under investigation, it cannot be *prima facie* opined that no offence is disclosed merely on the basis of stand of petitioners. The petition at this stage is premature involving disputed questions of fact which are under investigation and it may be preposterous to invoke the jurisdiction under Section 482 Cr.P.C. As such, the petition is not maintainable and is accordingly disposed of with liberty to the petitioner to file proceedings, if any, after filing of the final report/charge-sheet in accordance with law.

Considering the facts and circumstances, since the FIR pertains to the year 2021, Investigating Agency is directed to expeditiously conclude the



investigation, in accordance with law.

**ANOOP KUMAR MENDIRATTA, J.**

**MARCH 20, 2024/R**