



2024:DHC:4007



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IN THE HIGH COURT OF DELHI AT NEW DELHI**Date of decision: 16.05.2024**

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CRL.M.C. 5539/2022

CHANDER SHEKHAR YADAV & ORS. Petitioners

Through: Mr.Krishana Gopal Mishra,
Mr.Pradeep Kumar, Mr.Nandlal
Singh, Advs.

versus

THE STATE (NCT) OF DELHI & ANR. Respondents

Through: Mr. Shoaib Haider, APP with
SI Suresh Kumar.Mr.Anurag Andley, Mr.Gopal
Sharma, Mr.Aditya Andley,
Mr.Tanmay Gupta, Mr.Sahil
Nagar, Advs. for complainant.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of the FIR No.91/2020 registered at Police Station: Kotwali, North District, Delhi, under Sections 354/354A/323/509/506/34 of the Indian Penal Code, 1860 (in short, 'IPC') and all the proceedings emanating therefrom.

2. The abovementioned FIR has been registered on the complaint of the respondent no.2 alleging therein that on 21.01.2020 at around 5:00 PM, she went to the Durga Mandir. At about 7:00 PM, at the time of Arti, around 8-10 persons came there, including the petitioners herein, and they stated that a woman engaged in illicit business has



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come to the temple and when the complainant protested against the same, the petitioners started abusing her using filthy language and pulled her out of the temple by her hand saying that she shall be taken out of the temple, and called 8-10 women to get her thrashed/beaten up.

3. The learned counsel for the petitioners submits that the FIR has been registered on a totally false and *mala fide* complaint by the respondent no.2. He submits that there is a dispute going on between the parties with respect to the management of the temple and the subject FIR is the offshoot of this dispute and aimed only to seek vengeance. He submits that the petitioners had produced CCTV footage of the time around the alleged incident before the police during the course of the investigation. It shows no such incident having taken place. The police also confronted the complainant with the same. He submits that this is even admitted by the police in the charge-sheet that has been filed. He submits that the charge-sheet filed by the police also states that there is no evidence against the petitioners corroborating the accusations made by the respondent no.2. He submits that the charge-sheet has been filed only on the bare oral assertions/allegations made by the respondent no.2/complainant.

4. Today, the learned APP has also handed over a copy of the report received from the Forensic Science Laboratory which states that no alteration was found in the abovementioned CCTV footage that has been produced by the petitioners before the police.

5. The learned counsel for the respondent no.2/complainant, however, insists that the issues raised by the learned counsel for the



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petitioners are all matters of evidence and should be left for the learned Trial Court to decide in the trial. He submits that the FIR or the charge-sheet cannot be quashed on this basis alone and at this stage.

6. The learned counsel for the respondent no.2, placing reliance on the judgment of the Supreme Court in *State of Punjab v. Gurmit Singh & Ors.* (1996) 2 SCC 384, submits that evidence of the victim in a case of sexual assault does not require further corroboration and the conviction can also be founded only on the basis of the testimony of the victim. He submits that, therefore, the FIR and the chargesheet cannot be quashed at this juncture.

7. I have considered the submissions made by the learned counsel for the parties and have also perused the contents of the FIR as also the chargesheet.

8. The Supreme Court in *Mahmood Ali & Ors. v. State of U.P. & Ors.*, 2023 SCC OnLine SC 950, has observed that whenever an accused comes before the Court invoking the inherent powers under Section 482 of the Cr.P.C. for quashing of the criminal proceedings essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances, the Court owes a duty to look into the FIR with care and a little more closely, and the Court, with due care and circumspection, has to read between the lines to assess that the contents of the FIR/complaint constitute the alleged Offence or not. It was held as under:

“13. At this stage, we would like to observe



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something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting



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the issue of wreaking vengeance out of private or personal grudge as alleged.”

9. The above view has been recently re-emphasized by the Supreme Court in ***Achin Gupta v. State of Haryana & Anr.***, 2024 SCC OnLine SC 759.

10. In ***State of Haryana & Ors. v. Bhajan Lal & Ors.*** 1992 Supp (1) SCC 335, the Supreme Court has held that though the power under Section 482 of the Cr. P.C. to quash an FIR should be sparingly used in the rarest to rare cases, at the same time, it is the duty of the Court to exercise this power where it finds that the FIR/complaint has been *mala fide* filed in order to abuse the process of the Court and in cases where the allegations are maliciously made with the ulterior motive of wreaking vengeance on the accused with a view to spite him due to private and personal grudge.

11. Keeping in view the above principles, I cannot agree with the submissions made by the learned counsel for the respondent no.2. As is evident from the bare reading of the FIR and the charge-sheet, barring oral assertions/allegations made by respondent no.2/complainant, there is absolutely no evidence of the allegations made. In fact, the evidence is to the contrary in the form of CCTV footage produced by the petitioners, which has been found genuine. Coupled with this is the fact that there is a subsisting dispute between the parties in relation to the management of the temple. In fact, the charge sheet filed also points out to the lack of evidence to corroborate the allegations made by the respondent no. 2.

12. These facts fit the present case into exception carved out by the



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Supreme Court, that where the complaint has been filed with *mala fide* intent merely to settle private scores with the petitioners, it must be quashed and, in fact, the court owes this duty to the accused to quash the same rather than face the harassment of facing a frivolous trial. It must be remembered that the rights of the accused are equally important and are to be protected. Mere pendency of a criminal case casts a social stigma and can have vast adverse effect, for example, where the accused is applying for a job or a passport or a visa, where the application may require the accused to disclose the pendency of any criminal case where the person is facing trial. Therefore, it is imperative that where the court finds that even with the evidence alleged in the charge sheet, no case is made out against the accused or the allegations are made with a *mala fide* intent, the court should not hesitate to quash such a complaint or the FIR.

13. While there is no dispute to the proposition that in a given case, the testimony of the prosecutrix/victim of a sexual offence may itself be sufficient to bring home the charge against the accused, however, present is not such a case.

14. Accordingly, the petition is allowed. FIR No.91/2020 registered at Police Station: Kotwali, North District, Delhi under Sections 354/354A/323/509/506/34 of the IPC and the charge-sheet against the petitioners are quashed.

15. There shall be no order as to costs.

NAVIN CHAWLA, J

MAY 16, 2024/Arya/AS

[Click here to check corrigendum, if any](#)