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

\+ CRL.M.C. 5820/2022 & CRL.M.A. 22887/2022 & 32695/2023

AMRINDER SINGH @ RAJA

..... Petitioner

Through: Mr.D.N. Ray, Sr. Adv. with Ms.Sumita Ray, Mr.Dillip Kr. Nayak & Ms.Disha Ray, Advs.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Aman Usman, APP. along with Insp. Ramvir Singh, PS IGI Airport.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

O R D E R

% **16.05.2024**

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') read with Article 227 of the Constitution of India seeking quashing of FIR No.258/2010 registered at Police Station: IGI Airport, Delhi under Section 420 of the Indian Penal Code, 1860 (in short, 'IPC') and Section 12 of the Passports Act, 1967 (in short, 'Passports Act'), and the consequential proceedings including initiation of proceedings against the petitioner under Sections 82 and 83 of the Cr.P.C.

2. The above FIR was registered on 06.05.2010 on the complaint of the Immigration Officer, IGI Airport, stating that a male passenger, namely, Harmeet Singh, holding a Passport bearing no. xxxx dated

30.09.2005 issued at Chandigarh, arrived at counter no. 09 in the departure right wing of the Delhi Immigration for clearance for travelling to Milan via Doha. During the scrutiny of his passport, it was found that the refusal stamps were erased and were concealed by affixing Malaysian visa no.VB0471669 at page no.23. A visa sticker was also removed from page no.07 of the passport. In his interrogation, he revealed that the Malaysian visa was arranged by an agent namely Raja @ Amrinder Singh, the petitioner herein.

3. Thereafter, a charge-sheet was filed, *inter alia* alleging that during the course of further interrogation, though the accused Harmeet Singh has further disclosed that the petitioner herein was a resident of Police Station: Julka, Patiala, Punjab, however, he was not found there. It was stated that as the petitioner was not found, therefore, the process under Section 82 of the Cr.P.C. had been initiated against him.

4. The learned counsel for the petitioner submits that during the course of the trial, the main accused, that is, Harmeet Singh pleaded guilty before the Lok Adalat and has already been sentenced to the period undergone and had paid a fine of Rs.3000/-. He submits that there is absolutely no evidence against the petitioner for implicating him in the present case. He submits that the accused Harmeet Singh is not even traceable now.

5. On the other hand, the learned APP submits that the main accused had disclosed the involvement of the petitioner in the crime, even at the time of his arrest and is named in the FIR itself. He submits that the petitioner has been absconding and proceedings under Section 82 of the Cr.P.C. had been initiated against him.

6. I have considered the submissions made by the learned counsels for the parties.

7. From a reading of the FIR and the charge-sheet, it is apparent that except for the disclosure of the main accused Harmeet Singh, there is no evidence against the petitioner. As noted hereinabove, the main accused has already pleaded guilty before the learned Lok Adalat and is now no longer traceable. There is even otherwise no substantive evidence against the petitioner.

8. In ***State of Haryana v. Bhajan Lal,*** 1992 Supp (1) SCC 335, the Supreme Court has laid down the parameters for quashing of the FIR and held as under:-

> *"**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.*
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> > *(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."

9. In ***State of A.P. v. Golconda Linga Swamy***, (2004) 6 SCC 522, the Supreme Court has held as under:-

> ***"5****. ....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."*
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> *6. 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 :*
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> > *(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;*
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> > *(ii) where the allegations in the first information report or complaint taken at its 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.

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."

10. Taking into consideration the facts and circumstances of the present case and being guided by the principles enunciated by the Supreme Court in the above judgements, this Court deems it appropriate, in the interest of justice, to exercise its inherent powers under Section 482 of the Cr.P.C. to quash the FIR and all the proceedings emanating therefrom.

11. As the petitioner had not joined in the investigation, he shall deposit costs of Rs.1,00,000/- with the "*Delhi Fire Service*

Benevolent Fund, Axis Bank Ltd, the Statesman House, 148, Barakhamba Road, New Delhi, Saving Account No.924010014344677, IFSC Code, UTI80000007" within a period of three weeks from today, and shall file a proof of such deposit with the Registry of this Court and also supply a copy thereof to the IO, within the said period.

12. Subject to the compliance with the above condition/deposit being made, the petition is allowed. FIR No.258/2010 registered at Police Station: IGI Airport, Delhi under Section 420 of the IPC and Section 12 of the Passports Act and all consequential proceedings emanating therefrom *qua* the petitioner are quashed.

NAVIN CHAWLA, J

MAY 16, 2024*/rv/ss*

Click here to check corrigendum, if any