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

+ **W.P.(CRL) 2321/2024**

MALKEET SINGH

.....Petitioner

Through: **Mr. V.S. Dubey, Advocate**

versus

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

.....Respondents

Through: **Mr. Rahul Tyagi, ASC
with Mr. Abhishek Tomar,
Mr. Jatin, Mr. Sangeet
Sibou, Ms. Priya Rai &
Mr. Mathew M. Philip,
Advocates with SI
Satender Kr. Ahuja, PS
Geeta Colony.**

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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01.08.2024

CRL.M.A. 22657/2024 (exemption from filing certified copies)

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The present petition is filed seeking quashing of FIR No. 26/2024, dated 16.01.2024, under Sections 308/120B/34 of the Indian Penal Code, 1860, registered at Police Station Geeta Colony.
4. The FIR was registered on the complaint given by the complainant, namely, Himesh Tandon, who alleged that he was stopped at the Gas Agency, Geeta Colony by three persons on the way back from his tuition at around 7:15 PM. Allegedly, one of the three persons, namely, Abdul, started beating the complainant

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with kicks and slaps. It is alleged that the co-accused Abdul also picked up a glass mug from a nearby juice shop and hit the complainant with a mug several times while threatening to kill him.

5. The complainant's friends tried to rescue him and took him away on a motorcycle but were stopped by another boy, who was later identified as the applicant. It is alleged that the applicant had taken the keys of the motorcycle. It is further alleged that the complainant's tuition teacher tried to intervene and asked for the keys of the motorcycle, however, the petitioner refused to do the same and even tried to snatch the tuition teacher's phone when she threatened to call the police.

6. It is the case of the prosecution that the petitioner was involved in beating the complainant. It is further alleged that the assault carried out on him was done in a planned manner.

7. It is alleged that the crime team on reaching the place of incident found broken pieces of the glass mug, which were picked up and kept in a transparent plastic box. The complainant also handed a blood stained T-shirt he was wearing during the incident.

8. The learned counsel for the petitioner submits that he has been falsely implicated in the present case and there is no evidence against the petitioner. Concededly, the FIR was registered in the year 2024 and the investigation is still continuing.

9. The law in relation to quashing of FIR is well settled. The Hon'ble Apex Court in **State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335**, while noting that the power of quashing of criminal proceeding should be exercised very sparingly and with circumspection, has laid down the



following principles with respect to quashing:

“102.

- 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.”

10. At this stage, it cannot be said that no case is made out against the petitioner. No argument is made as to why the complainant would seek to falsely implicate the petitioner either.

11. *Prima facie*, the allegations taken at their face value, disclose an element of criminality and commission of a cognizable offence. The same requires investigation and does not seem so improbable or perverse that they merit the exercise of the jurisdiction of this Court under Section 482 of the CrPC, therefore, the FIR cannot be quashed at this stage.

12. The present petition is dismissed. All pending applications also stand disposed of.

AMIT MAHAJAN, J

AUGUST 1, 2024

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