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

+ **CRL.M.C. 6156/2024 & CRL.M.A. 23536/2024**

ASHOK KUMAR & ANR.Petitioners
Through: Ms. Sunita Arora,
Advocate (DHCLSC)
alongwith Petitioner-in-
Person.

versus

THE STATE NCT OF DELHI AND ANRRespondents
Through: Mr. Naresh Kumar
Chahar, APP for the State
with Ms. Neha Sharma,
Advocate.
Inspector Deepak Kumar
(P.S. New Usmanpur).

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
08.08.2024

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1. The present petition is filed seeking quashing of FIR No.540/2023 dated 16.07.2023, registered at Police Station New Usmanpur, for offences under Sections 354A/506/509/34 of the Indian Penal Code. The FIR was registered on a complaint given by Respondent No.2.

2. The brief facts of the case that the petitioners and the complainant live in the same neighbourhood. Petitioner No.1 is the father of Petitioner No.2. It is alleged that the complainant was eve-teased by the petitioners and they also demanded sexual favours from her.

3. The learned counsel for the petitioners submits that the
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allegations in the FIR are false.

4. She further contends that FIR No.122/2021 was registered at the instance of the daughter of Petitioner No.1 against the complainant on 12.03.2021 and the present FIR is only counter blast to the same.

5. The law in relation to quashing of the FIR in exercise of inherent powers is well settled. The Hon'ble Apex Court in the case of ***Indian Oil Corporation v. NEPC India Limited and Others : (2006) 6 SCC 736*** has discussed the scope of jurisdiction under Section 482 of the CrPC [analogous to Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 ('BNSS')] to quash criminal proceedings. Section 482 of the CrPC now stands replaced by the analogous provision – Section 528 of Bharatiya Nagrik Suraksha Sanhita, 2023. The relevant portion of the same is reproduced hereunder:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.”

(emphasis supplied)

6. As expounded by the Hon'ble Apex Court, at the time of considering the petition seeking quashing of the FIR in exercise of inherent powers, the Court has to take the allegation at their face value in their entirety. It is also trite law that when it is alleged that the proceedings are manifestly frivolous or vexatious and instituted to wreak vengeance, it is incumbent on the Court to look into the FIR more closely (Ref. ***Mahmood Ali & Ors. v. State of U.P & Ors. : 2023 SCC OnLine SC 950***).

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7. It has specifically been alleged in the FIR that the petitioners eve-teased Respondent No.2 and demanded sexual favours from her on multiple occasions. While it is alleged that the said behaviour was routine, however, Respondent No.2 has made specific allegations regarding an incident on 16.07.2023 as well. It is alleged that when the son of Respondent No.2 was sitting outside the house, Petitioner No.2 started quarrelling with him and threatened to send him to jail. It is alleged that when Respondent No.2 tried to pacify Petitioner No.2, he misbehaved with her. Further, Petitioner No.1 also came to the spot and misbehaved with her as well.

8. While it is argued that the allegations are false, in the opinion of this Court, the same is a matter of investigation and cannot be presumed at this stage merely due to prior animosity between the parties.

9. As discussed above, this court, at this stage, is not required to undertake a meticulous analysis of the material on record. A one-minute video of the alleged incident has also been annexed by the petitioners. It is contended that the same pertain to the time after the altercation. The parties can be seen merely walking in opposite directions. The same alone, even if taken at the highest, does not bely the allegations levelled against the petitioners. Any further comment on the same will be premature.

10. In view of the aforesaid discussion, *prima facie*, the allegations taken at their face value, disclose the commission of a cognizable offence. The same do not seem so improbable or perverse that they merit the exercise of the jurisdiction of this Court under Section 528 of BNSS.

11. This Court does not consider it apposite to comment further on the facts at this stage when charges are yet to be



framed.

12. Needless to say, it is open to the petitioner to take all his defences before the learned Trial Court.

13. The present petition is dismissed. The pending application also stands disposed of.

AMIT MAHAJAN, J

AUGUST 8, 2024

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