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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 7292/2024 and CRL.M.A. 27846/2024
SHISH PAL SINGHPetitioner
Through: Mr. L.D. Joshi, Advocate.
versus
STATE OF NCT OF DELHI AND ORSRespondents
Through: Mr. Tarang Srivastava, APP for the
State with Surabhi, P.s. Mandawali.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **13.09.2024**

CRL.M.A. 27845/2024 (exemption)

Exemption granted, subject to just exceptions.

Application stands disposed-of.

CRL.M.C. 7292/2024

By way of the present petition filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner seeks quashing of case FIR No. 383/2016 dated 20.10.2016 registered under sections 332/186/353 of the Indian Penal Code, 1860 ('IPC') at P.S.: Mandawli Fazal Pur, Delhi.

2. Mr. L.D. Joshi, learned counsel appearing for the petitioner submits, that the petitioner has been implicated in a false case and the contents of the FIR are completely untrue. Counsel draws attention to the petitioner's own MLC dated 20.10.2016, to show that in fact he had received abrasions on the lower lip, though the nature of injury was opined to be 'simple'.
3. Mr. Joshi submits, that the correct position is that the petitioner was provoked by the police officer, viz. Constable Jitender, who was not



in uniform at the relevant time, and who had asked the petitioner to move his car from a certain place where it was standing. It is submitted that the petitioner told the constable that he would do so after some time, but that led to a scuffle, in which the petitioner himself sustained the injuries.

4. Counsel submits, that since the police declined to register an FIR, the petitioner moved an application under section 156(3) Cr.P.C. seeking registration of an FIR, which was allowed by the learned Metropolitan Magistrate, Karkardooma Courts, Delhi *vide* order dated 01.06.2018.
5. It is submitted that subsequently however, *vide* order dated 10.07.2018 passed on a criminal revision petition bearing No. 114/2018 filed by Ct. Jitender, the learned Special Judge, Karkardooma Courts, Delhi was pleased to set-aside the order of the learned Magistrate, for the reasons recorded in that order.
6. Mr. Joshi submits, that order dated 10.07.2018 was challenged by the petitioner by way of criminal revision petition bearing CRL.REV.P. No. 943/2018, which was dismissed as withdrawn *vide* order dated 09.04.2024 recorded by a Co-ordinate Bench of this court.
7. Mr. Joshi submits, that it is evident on a bare reading of the FIR and the MLC report, that it was the petitioner who was the 'victim' in the incident and not Ct. Jitender. Furthermore, Mr. Joshi argues that the circumstances of the case show that criminal proceedings against the petitioner are manifestly attended by *mala-fides* and have been instituted maliciously, with the ulterior motive of seeking vengeance against the petitioner.



8. Mr. Tarang Srivastava, learned APP for the State appears on advance copy; and submits that investigation in the case has been completed; chargesheet dated 16.09.2019 has been filed; and the matter is now pending before the learned Magistrate for arguments on charge, for which it is listed next on 24.09.2024.
9. For the record, it may be noted that the petitioner was granted bail *vide* order dated 21.10.2016 passed by the learned Metropolitan Magistrate and has been facing trial ever-since.
10. Upon being asked, as to why the present petition has come to be filed after nearly 08 years of the date of registration of FIR, Mr. Joshi offers no convincing response, except to say that he was going from “*pillar to post within the administrative department attempting to resolve the matter*”.
11. Also, upon being queried as to which of the grounds enunciated by the Supreme Court in ***State of Haryana & Ors. vs. Bhajan Lal & Ors.***,¹ are attracted in the present case to warrant quashing of the FIR, Mr. Joshi is unable to give any cogent answer, except to say that on a bare reading of the FIR the ingredients of the offences alleged are not even *prima-facie* made-out. To support this submission, Mr. Joshi argues that it is the petitioner’s contention that at the relevant time Ct. Jitender was *not* in uniform, and therefore the petitioner could not have known that he was interacting with a public servant on duty. However, the subject FIR records that Ct. Jitender, who is the complainant in the matter, says that at the time of occurrence of the

¹ 1992 Supp (1) SCC 335



incident he was posted as Commando with the QRT Security Unit at Akshardham Metro Station within the jurisdiction of P.S.: Mandawali, Delhi.

12. In the opinion of this court, quite apart from the inordinate and unexplained delay in filing the present petition, it is also clear that the grounds sought to be raised by the petitioner for quashing of the subject FIR do not fall within the guidelines enunciated by the Supreme Court in *Bhajan Lal* (supra).
13. Moreover, the matter is now stated to be pending for arguments on charge, which is scheduled for 24.09.2024; and it is therefore available to the petitioner to raise all his contentions before the learned Trial Court, and to argue for discharge from the matter, if he is able to show that no material or evidence has come on record to support framing of charges against him.
14. In the above view of the matter, the present petition is dismissed *in-limine*.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 13, 2024

V.Rawat