



2024:DHC:5951



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IN THE HIGH COURT OF DELHI AT NEW DELHI**Reserved on: 21st May, 2024****Pronounced on: 09th August, 2024**

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W.P.(CRL) 236/2018**RENU BALA & ANR**

..... Petitioners

Through: Ms. Rajdipa Behura, Mr. Philomon Kani,
Ms. Neha Dobriyal, Ms. Simrat Kaur
Sareen, Ms. Aishwarya Gupta, Ms.
Nandini Sharma, Advocates alongwith
petitioners in-person.

versus

STATE (GOVT OF NCT OF DELHI) & ORS Respondents

Through: Mr. Sanjay Lao, Standing Counsel, Ms.
Nandita Rao, ASC with Ms. Priyam
Agarwal, Mr. Abhinav Kumar Arya,
Advocates for the State.

CORAM:**HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.**

1. The present petition under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973, (for short, 'CrPC'), seeks the following prayers: -

- "i. Issue a writ, direction or order in the nature of mandamus directing an independent agency like the CBI or any other agency, except Delhi Police to further investigate the case FIR No. 338/2016 as mentioned hereinabove;
- ii. Call for the CCTV footage of 14.07.2016 of the office of Joint Commissioner of Police, Police Head Quarters, 6th floor, corridors and entry point to the office of the Joint Commissioner of Police and the main entry gate of the Police Head Quarters

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And/Or

iii. Issue a Writ, direction or order in the nature of Mandamus, directing quashing of the Case FIR No. 338/2016 P.S. I.P. Estate filed u/s186/189/352/353/34 IPC, dated 14.07.2016

And/Or

iv. Issue a Writ, direction or order, directing the Ld. Trial Court to hear the case arising out of FIR 338/2016 and the Complaint Case CC 2634/2017 filed by the Petitioners herein together.

v. Issue any other relief, which this Hon'ble Court deems fit in the peculiar facts and circumstances of the case.”

2. The case of the petitioners is that they are facing abuse and atrocities at the hands of respondent No.10. It is stated that respondent No.10 and petitioners have filed various cases *inter se* between them including the following FIRs: -

- a) FIR No. 262/2013 dated 19.06.2013, under Sections 354D/506/509/34 of the IPC, registered at PS North Rohini at the instance of Respondent No. 10 against the Petitioner No. 2 and another neighbour Sh. Kewal Kishan Handuja;
- b) FIR No. 130/2016 dated 24.02.2016, under Section 3(x) of The Schedule Castes and The Schedule Tribes (Prevention of Atrocities) Act, 1989, registered at PS North Rohini at the instance of the Petitioner No. 1 against the Respondent No. 10 (Annexure P-7);
- c) FIR No. 131/2016 dated 25.02.2016, under Sections 354D/506/509/34 of the IPC, registered at PS North Rohini at the instance Respondent No. 10 against the Petitioners (Annexure P-8);
- d) FIR No. 282/2016 dated 08.07.2016, under Sections 354/506/509 of the IPC, registered at PS North Rohini at the instance Respondent No. 10 against the Petitioner No. 2 (Annexure P-12);

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3. The case of the petitioners is that on 14.07.2016, the petitioners had gone to the Office of DCP (Outer) and later on, to the Police Headquarters to complain about the fact that police officials in collusion with the respondent No. 10 are filing false cases against them and also about various other grievances that the petitioners had against the Police Officials and the respondent No. 10. It is submitted that as soon as the petitioners started narrating their grievance before the Joint Commissioner of Police (NR), Shri Sanjay Kumar Singh, respondent No.2, respondent No.3 and other police officials in a well-planned conspiracy started beating up the petitioner No.2. Petitioner No.1 was shocked to see such unruly act of such high ranked police officials and tried to intervene to save her husband's life. The petitioner No.2 was beaten up severely and was forcibly taken out of the room by the police personnel. Police Officials tried to disrobe the petitioner No.1, they almost removed petitioner No.1's t-shirt. When petitioner No.1 objected, respondent No.4 told her that "now I will teach you a lesson about what will be the fate of complaining against police officers, stand straight". Petitioner No.1 was also molested and assaulted by the police personnel who were accompanying her to the PS I.P. Estate and later to LNJP Hospital. It is alleged that thereafter the police officials registered FIR No. 338/2016 against the petitioners stating that they were the aggressors. The petitioners were illegally detained and taken to LNJP Hospital at 09:00 PM and made to sit for medical examination till 3:00 A.M. After this, the petitioners were taken to PS I.P. Estate and the petitioner No.2 was produced before learned Magistrate only at 5:30 A.M. The petitioner No.1, being a lady, was kept in illegal custody from 9:00 P.M. on 14.07.2016 till 5:30 AM on 15.07.2016

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against the provisions of law. It is further alleged that no explanation is given for the injury of the petitioner No.1 on Right Parieto Temporal Region, occipital region, right upper back, right shoulder region, left side of neck, right hypochondrium region, hypogastrium and both the buttock and the injuries of petitioner No.2 on the mid forehead, bilateral arm medial aspect, pain in bilateral side of face and pain in chest right lower part. This, it is stated, shows that the petitioners were manhandled and physically assaulted by the respondent Nos. 2 to 9.

4. It is further submitted that, on the date of the said incident, the petitioner No.1 called Womens' Commission at their helpline No. 181 at around 07:48 P.M. She made several calls from 07:39 to 08:13 PM and when there was a feedback call from the Womens' Commission, the respondent Nos. 2 to 9 with help of their staff snatched the mobile phone of the petitioners because of which the Womens' Commission were not able to contact the petitioners. The Womens' Commission were the one who traced the petitioners in LNJP Hospital. It is pertinent to mention here that the transcript of the call made to the Womens' Commission, clearly proves the case of the petitioners as the petitioner No.1 had made specific allegations against respondents.

5. It is the case of the petitioners that, after the incident of 14.07.2016, they were in a state of depression and on the verge of committing suicide. The petitioners were treated in RML Hospital, New Delhi for the same and as soon as the petitioners were in the right frame of mind, they had sent a complaint to the Commissioner of Police on 07.08.2016 with regard to the incident dated 14.07.2016 and the registration of FIR No. 338/2016 against them. That, on

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11.08.2016, the petitioners filed a complaint against the accused police officials. On 22.07.2016, a request was made to the Commissioner of Police stating the incident in brief and requesting to preserve the CCTV footage of the office of Joint CP (NR). Since no action was taken, a reminder was sent to the Office of DCP and Commissioner of Police on 26.12.2016. The petitioners also requested a copy of the CCTV footage of the place of occurrence through RTI application dated 26.12.2016. However, the Public Information Officer (PIO) responded to the RTI application stating that no CCTV camera was installed in Office of Joint CP(NR). It is contended that it is highly unlikely that CCTV cameras were not installed in the Office of the Joint CP(NR). The inaction on the part of the police officials, compelled the Petitioners to file a complaint under Section 200 of the CrPC along with application under Section 156(3) of the CrPC before learned Chief Metropolitan Magistrate, Tis Hazari Court.

6. Learned counsel appearing on behalf of the petitioners submits that the present FIR is an abuse of process of the Court inasmuch as the stand of the respondents that CCTV cameras were not installed in the Office of Joint Commissioner of Police (NR) is most unlikely. It is pointed out that the version of the respondents in FIR No. 338/2016 is wholly unbelievable as the petitioners who are teachers by profession could not have fought with the police officials at police headquarters. As pointed out hereinabove, the MLC of the petitioners also reflects that they had received injuries at the hands of the respondents.

7. Learned counsel appearing on behalf of the petitioners further submits that the case of the present petitioners is covered within the fifth category as illustrated in *para* 102 of judgment of the Hon'ble Supreme Court in **State of**



Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335. The relevant portion of the observation made by the Hon'ble Supreme Court in *para* 102 is 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.

(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.....”

8. *Per contra*, learned Standing Counsel for respondents nos. 1 to 9 submits that the case of the prosecution, as per the Status Report dated 14.05.2018 authored by Mr. Mandeep S. Randhawa, IPS, Deputy Commissioner of Police, Central District, Delhi, against the present petitioners is as follows: -

“1. This report is being filed on behalf of Delhi Police in compliance of Order dt.23/03/2018 passed by the Hon'ble Court in the above matter.

2. That brief facts of the case are that on 14/7/16 the Respondents no. 2 to 4 were present in the office of Joint C.P./Northern Range on 6th Floor, PHQ, New Delhi to attend an official briefing/debriefing after a meeting held by Spl. C.P./Law & order (North), in connection with law and order arrangements for the forthcoming Kanwar Shivir/Yatra and Independence Day. Copy of Minutes of Meeting is enclosed as **Annexure-R/1**.

That at about 7.30 PM Staff Officer of Jt. C.P./Northern Range ushered the petitioners to the office room of the Jt.C.P./Northern Range where the above meeting was going on. The petitioners, when told that an important meeting



was going on, asserted that they would not allow the meeting to continue. In pursuance of their assertion Mrs. Renu Bala, Petitioner No. 1 banged her head on the official table and also threw the Paper- Weight on the floor. Dr. Shamsher Singh started a scuffle with the Respondent No. 3. When Respondent No. 4/Ms. Amurtha Gugloth, carrying a pregnancy, tried to stop her, Mrs. Renu Bala kicked the Respondent No. 4 on her abdomen. Thereafter staff was summoned to control the petitioners. For the sake of brevity the details are not repeated as the petitioner has relied upon the copy of FIR as **Annexure-P/1**.

That on the basis of the complaint by Respondent No. 3, FIR No. 338/2016 was lodged at P.S. I.P. Estate against the petitioners on the same day. The petitioners were arrested and produced in the court on 15/7/2016. After due investigation of the case, a chargesheet was filed in the court on 6/10/2017. On 22/11/2017 the trial court has framed Charge against the petitioners. Copy of Order dt. 22/11/2017 is enclosed as **Annexure-R/2**. The case is now pending trial in the court of Sh. Abhilash Malhotra, M.M./Central Distt and next date of hearing is posted for 26/5/2018 for Prosecution Evidence. It is evident from **Annexure-R/2** that the petitioners did not contest the case for framing of the charges and submitted themselves to the jurisdiction of the trial court and implicitly admitted that a Prima Facie case was made out against them. It is pertinent to submit here that the petitioners, who are well aware of this material fact, have concealed the same from the Hon'ble Court. The petition, therefore deserves to be dismissed on this fact in view of the well established law that if the applicant does not disclose all the material facts and truly the court has the inherent power to refuse to proceed further. It is also well established law that anyone who takes recourse to suppression of facts within his knowledge, is actually playing fraud with the court. On the other hand version of the petitioners as projected in this Petition that they were the victims, is false and motivated, in addition to being badly delayed. They did not make any allegation before the court, despite opportunity, at the time of her production in the court on 15/7/2016, in their Bail Application and attending court on 18/7/2016 in connection with their application for release of Personal Search Items. During Vigilance Enquiry initiated on her complaint, despite full opportunity having been given to them, their version was not substantiated. Meanwhile the petitioners had also approached the Ld. Trial Court with an Application Under Section 156 (3) Cr.P.C. The Ld. Trial Court, dismissed their Application U/s 156 (3) Cr.P.C, on cogent grounds.”



9. Learned Standing Counsel appearing on behalf of respondents nos.1 to 9 submits that chargesheet in the aforesaid FIR has already been filed and charges have been framed *qua* the present petitioners *vide* order dated 22.11.2017, which have not been challenged till date. It is further stated that since charges have already been framed, the remedy with respect to the same would not be the present petition. It is also pointed out that, out of 18 witnesses cited by the prosecution, 6 have already been examined before the learned Trial Court. It is also pointed out that Delhi Police Control Room (DPCR FORM-I) Form attached with the status report reflects that a call was made by petitioner no.1 on the date of incident wherein she reported that she alongwith her husband is being made to leave the Office of Joint CP forcefully and the same reflects that the version given by the petitioners is incorrect.

10. Heard learned counsel for the parties and perused the record.

11. It is the case of the petitioners that, on the date of incident i.e., 14.07.2016, they had gone to the police headquarters for making representation/complaint against respondent No.10. The petitioners claim that the police officials in collusion with respondent No.10 had registered various false FIRs against them. It is pertinent to note that in the present petition some of the grounds taken by the petitioners are as under: -

“D. Because the police officials are acting at the behest of Ms. Vaishali Jindal in falsely implicating the Petitioners in various false cases including the FIR in question FIR No. 338/2016. The case at hand is a totally false case which does not narrate the facts as they happened and instead a story was concocted by the Police officials to falsely implicate the petitioners. The complaints by the petitioners which reflected the facts as they unfolded,



have not culminated into an FIR in contravention of the directions of the Hon'ble Apex Court in *Lalita Kumari vs State of UP*(2014) 2 SCC 1. This shows the efforts made by the police to save the culprits, in this case people from their own department from the hands of law. In *Lalita Kumari* (supra), the Hon'ble Apex Court held as follows:

44) Therefore, the context in which the word "shall" appears in Section 154(1) of the Code, the object for which it has been used and the consequences that will follow from the infringement of the direction to register FIRs, all these factors clearly show that the word "shall" used in Section 154(1) needs to be given its ordinary meaning of being of "mandatory" character. The provisions of Section 154(1) of the Code, read in the light of the statutory scheme, do not admit of conferring any discretion on the officer in-charge of the police station for embarking upon a preliminary inquiry prior to the registration of an FIR. It is settled position of law that if the provision is unambiguous and the legislative intent is clear, the court need not call into it any other rules of construction.

F. Because the Petitioners are being harassed by the police officials who in active connivance with Ms. Vaishali Jindal are intent on harassing the petitioners because they are members of Scheduled Caste and wants to drive the petitioners away from their home. Their collusion/ bias can be seen from the manner in which they have not effectively acted upon the past complaints and FIRs lodged by the Petitioners against Ms. Vaishali Jindal and police official.

G. Because the police officials are harassing the Petitioners in collusion with Ms. Vaishali Jindal. It is most humbly submitted that Ms. Vaishali Jindal on many occasions had in fact threatened the Petitioners and other neighbours of filing false cases against them using her connection with senior police officials”.

12. It is a matter of record that the petitioners and respondent no.10 have since resolved their disputes, the FIRs as mentioned hereinabove, registered *inter se*



between the parties have been quashed by this Court in the petitions filed on their behalf.

13. The petitioners had filed a complaint alongwith application under Section 156 (3) of the Cr.P.C. seeking registration of the FIR regarding their version of the events on the date of incident i.e. 14.07.2016. It is pointed out that the said application under Section 156 (3) of the Cr.P.C. has been dismissed and the petitioners are pursuing their complaint against respondents no. 2 to 9 herein. It is also a matter of record that in the chargesheet filed in the present case FIR, charges *qua* the petitioners were framed by the learned Trial Court *vide* order dated 22.11.2017 and the present petition was filed on 20.12.2017 without challenging the said order of framing charge.

14. Be that as it may, the fact is that there are two versions of the incident dated 14.07.2016. Both the versions are disputed questions of fact, which this Court under jurisdiction of Article 226 of the Constitution of India cannot go into. The matter is pending adjudication before the learned Trial Court and is at the stage of recording of evidence. The petitioners will have ample opportunities to cross-examine the witnesses and the remedy with respect to complaint against respondent nos. 2 to 9 is also available to them. It has also come on record that no CCTV camera was installed at the Office of Joint Commissioner of Police, North Region at that relevant point in time. The contention of the learned counsel appearing on behalf of the petitioners that the same is unlikely cannot be a ground to quash the proceedings as prayed in the present petition. Similarly, the contention that the petitioners who are educated professionals could not have



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committed the offences alleged in the present FIR cannot be a ground to quash the proceedings.

15. As noted hereinabove, after completion of investigation in the present case, chargesheet has been filed before the Court of competent jurisdiction and charges have been framed by the learned Trial Court against the present petitioners.

16. The present case is not one where it can be safely concluded at this stage that no offence is made out. The Hon'ble Supreme Court, in **Mahendra K.C. v. State of Karnataka and Another, (2022) 2 SCC 129**, has held and observed as under: -

“19. The High Court has the power under Section 482 to issue such orders as are necessary to prevent the abuse of legal process or otherwise, to secure the ends of justice. The law on the exercise of power under Section 482 to quash an FIR is well-settled. In *State of Orissa v. Saroj Kumar Sahoo* [*State of Orissa v. Saroj Kumar Sahoo*, (2005) 13 SCC 540 : (2006) 2 SCC (Cri) 272] , a two-Judge Bench of this Court, observed that : (SCC pp. 547-48, para 8)

“8. ... While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. 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 abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of

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justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto.”

20. These principles emanate from the decisions of this Court in *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and *State of M.P. v. Surendra Kori* [*State of M.P. v. Surendra Kori*, (2012) 10 SCC 155 : (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247 : (2012) 2 SCC (L&S) 940] . In *Surendra Kori* [*State of M.P. v. Surendra Kori*, (2012) 10 SCC 155 : (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247 : (2012) 2 SCC (L&S) 940] , this Court observed : (*Surendra Kori case* [*State of M.P. v. Surendra Kori*, (2012) 10 SCC 155 : (2012) 4 SCC (Civ) 921 : (2013) 1 SCC (Cri) 247 : (2012) 2 SCC (L&S) 940] , SCC p. 163, para 14)

“14. The High Court in exercise of its powers under Section 482 CrPC does not function as a court of appeal or revision. This Court has, in several judgments, held that the inherent jurisdiction under Section 482 CrPC, though wide, has to be used sparingly, carefully and with caution. The High Court, under Section 482 CrPC, should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of wide magnitude and cannot be seen in their true perspective without sufficient material.”

Further, in **Ramveer Upadhyay and Another v. State of U.P. and Another**, 2022 SCC OnLine SC 484, the Hon’ble Supreme Court has held and observed as under:

“39. In our considered opinion criminal proceedings cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr.P.C. only because the complaint has been lodged by a political rival. It is possible that a false complaint may have been lodged at the behest of a political opponent. However, such possibility would not justify interference under Section 482 of the Cr.P.C. to quash the criminal proceedings. As observed above, the possibility of retaliation on the part of the petitioners by the acts



alleged, after closure of the earlier criminal case cannot be ruled out. The allegations in the complaint constitute offence under the Attrocities Act. Whether the allegations are true or untrue, would have to be decided in the trial. In exercise of power under Section 482 of the Cr.P.C., the Court does not examine the correctness of the allegations in a complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence. The Complaint Case No. 19/2018 is not such a case which should be quashed at the inception itself without further Trial. The High Court rightly dismissed the application under Section 482 of the Cr.P.C.”

17. In view of the facts and circumstances of the case, this Court finds no ground either to quash the FIR or transfer the investigation to any other agency at this stage.

18. With regard to the prayer directing the learned Trial Court to hear the case arising out of FIR No. 338/2016 and the Complaint Case No. 2634/2017 together, the petitioners are at liberty to initiate appropriate proceedings in accordance with law.

19. With the above observations, the present petition is dismissed and disposed of.

20. Pending application(s), if any, also stands disposed of accordingly.

21. Judgment be uploaded on the website of this Court *forthwith*.

AMIT SHARMA
JUDGE

AUGUST 09, 2024/nk