2025:PHHC:075313

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

268-2

CRM-M-21616-2018 (O&M)
Date of decision: 28.05.2025

Lalit Taneja and another **...Petitioners**

Versus

State of Punjab and another **...Respondents**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gurmohan Singh Behi, Advocate,
Mr. Pawandeep Singh, Advocate,
Mr. Akashdeep Singh, Advocate,
Mr. K. S. Bargan, Advocate and
Mr. Rahul Rohilla, Advocate
for the petitioners.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Gourav Goel, Advocate
for respondent No. 2.

MANISHA BATRA, J. *(Oral)*

1. Prayer in this petition, filed under Section 482 of the Code of Criminal Procedure *(for short 'Cr.P.C.')*, is for quashing of FIR No. 119 dated 14.08.2016, registered under Sections 380 and 120-B of IPC at Police Station Meharban, District Ludhiana along with all the subsequent proceedings having emanated threrefrom.

2. The brief facts relevant for the purpose of disposal of this petition are that M/s Educomp Solutions Limited was an education company in India engaged in the business of providing licensed services repository of digital curriculum created, sourced, developed and owned by it. These services were distributed by the above company through M/s Edusmart

Services Private Limited *(for short 'company'),* whereby turn key solutions including setting up and implementing "smart class" programs at each and every licensing location/school were provided. Its educational programs were adopted by different education institutions. Complainant Manmohan Singh, who is Managing Director of a school, moved a written complaint dated 18.02.2015 before the police alleging that the accused no. 3 Lalit Taneja, who is Head of sales of the company had approached him for providing services of the company as and when required and for giving proper services and equipments to his school. An agreement was executed between the complainant and accused Rajesh Bhardwaj and Pramod Thatoi, who were Vice-President and authorized signatory, respectively, of the company. As per the agreement, smart class programs and other services were to be implemented in the school. Accused Pramod Thatoi was duty bound to appoint, train and deploy on full time basis, smart class resource co-coordinators at the option of the complainant for undertaking smart class program in the premises of school of the complainant. The accused were to ensure installation of the program, to keep and maintain the same and to provide efficient service. An amount of Rs. 5,93,334/- had been given by the complainant to the accused persons through cheques for installation and working of the equipments and for carrying on programs through the same. The cheques were duly encahsed by the accused persons. However, the accused did not provide services as per the agreement and misappropriated the aforementioned amount of money.

3. The complainant further alleged that on 10.01.2012 at about 11:00AM, the present petitioners who were employees of the company along

with the remaining accused came to the school of the complainant. Four-five unknown persons were also accompanying them. Accused Jeewan took 04 projectors, 01 roll of networking wire, 04 mini android devices, 21 hard discs and 04 CP Rolls in absence of the complainant and without his consent. They refused to return the said articles on asking of the complainant and, therefore, he prayed for taking action in the matter. On this complaint, the aforementioned FIR was registered on 14.08.2016.

4. The present petition has been filed on the grounds and it is argued by learned counsel for the petitioners that they have been falsely implicated in this case. The petitioner no. 1 Lalit Taneja was working as Senior Regional Manager in the company at the relevant time and he seldom used to visit the schools for training sessions as his role was get new schools affiliated to the smart school program of the company. Petitioner no. 2 was working as Regional Manager and she too was taking training sessions and as on 10.01.2012, she was taking training sessions at Saraswati School, Civil Lines, Ludhiana. A certificate to this effect was given by the concerned principal. Petitioner No. 3 Jiwanpal Singh was also present on some other school. As such, there was no question of their having gone to school of respondent no. 2. Even otherwise, the version in the complaint is quite improbable and unnatural as the incident of this theft which allegedly took place on 10.01.2012 was reported to police after the gap of three and half years and no explanation for this delay has been given. To fortify his arguments, learned counsel for the petitioners has relied upon the authorities cited as ***Manoj Kumar Sharma and others vs. State of Chattisgarh and another, 2016 (4) RCR (Criminal) 145*** and ***Vijay Kumar Ghai and others***

vs. State of West Bengal and others, SLP (Crl.) No. 10951 of 2019, decided on 22.03.2022.

5. It is further argued that respondent no. 2 complainant had neither made any complaint to the company during the intervening period nor had issued any notice to them. Rather during the period from 2012 to 2014, the management of his school, under the signatures of the complainant had been appreciating the training and interactive sessions being carried out by the petitioners and other employees of the company and had been issuing appreciation certificates. No visitor register carrying details of visit of the petitioners on 10.01.2012 in the school or CCTV footage was produced by the respondent no. 2. No bills qua purchase of hard discs and CPU etc. have been produced by the respondent no. 2 to show that the school had purchased the same. The allegations on the face of the record are false and do not make out a case for the commission of the offence under Section 380 of IPC or qua hatching of a conspiracy between the petitioners and other co-accused for committing theft. These allegations are absurd and inherently improbable and have been initiated only to abuse the process of law. The respondent no. 2 is politically strong person and hence managed to lodge the FIR to avoid his liability to make payment of the amount due to the company and only feeling offended by the fact that on 05.02.2015, the company had issued a notice (Annexure P-9) to the complainant to invoke arbitration clause which was part of the agreement executed between the company and the petitioners. With these broad submissions, it is urged that the petition deserves to be allowed.

6. Respondent no. 1-State and respondent no. 2-complainant, have

filed separate replies, wherein the pleas as taken in the petitions have been controverted and dismissal of the petition has been prayed for. It is argued by learned State counsel, assisted by learned counsel for respondent no. 2, that there are specific allegations against the petitioners. The allegations levelled against the petitioners stand corroborated from the evidence collected by the Investigating Officer during investigation, culminating into filing of chargesheet against them and co-accused. It is further argued that the allegations levelled in the FIR are sufficient to make out a *prima facie* case as against the petitioners. The veracity of the allegations as levelled against the petitioners can be tested in the trial which has to take place before learned trial Court and no ground for quashing the FIR has been made out.

7. The rival submissions made by the parties have been heard and given due deliberations by this Court.

8. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. *(which is pari materia with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023)* as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific. To secure the ends of justice, to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble

Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as ***State of Haryana Vs. Bhajan Lal : 1992 SUPP (1) SCC 335***, wherein Hon'ble Supreme Court has discussed different categories of cases wherein the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

> "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;
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> (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;
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> (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. The principles of law as laid down by Hon'ble Supreme Court in ***Bhajan Lal'***s case (supra) have been followed in a catena of judgments. In ***Paramjeet Batra vs. State of Uttarakhand, (2013) 11 SCC 673***, it was observed by Hon'ble Supreme Court that although the inherent powers of a High Court under Section 482 of the Code should be exercised sparingly and only for the purpose of preventing abuse of process of any Court or otherwise to secure ends of justice, yet, the High Court must not hesitate in quashing such criminal proceedings, where essential ingredients of the offence are not made out. In ***Randheer Singh vs. State of Uttar Pradesh,***

(2021) 14 SCC 626, it was observed by Hon'ble Supreme Court that criminal proceedings cannot be taken recourse to as a weapon of harassment.

10. Reference can further be made to ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, wherein Hon'ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can further be made to ***Narinder Singh and Ors. Vs. State of Punjab : (2014) 6 SCC 466,*** wherein it was by Hon'ble Supreme Court that while exercising power under Section 482 of Cr.P.C., the High Court has to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal case would put him into great oppression and prejudice and injustice would be caused to him by not quashing criminal case.

11. In ***Dhruvaram Murlidhar Sonar vs. State of Maharashtra : 2019 (18) SCC 191,*** Hon'ble Supreme Court, while reiterating the parameters as laid down in ***Bhajan Lal***'s case (supra), had observed that for quashing of the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate was not called for. Appreciation of evidence was also not permissible in exercise of inherent powers. If the allegations set out in the complaint did not constitute the offence of which

cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.

12. In ***Neeharika Infrastructure vs. State of Maharashtra : 2021 SCC OnLine SC 315***, the Apex Court observed that the Courts ought to be cautious in exercising powers under Section 482 of Cr.P.C. They do have power to quash. The test is whether or not the allegations in the FIR disclose the commission of a cognizable offence? The merits of the allegations are not to be entered into nor the power of the investigating agency to investigate into allegations involving the commission of a cognizable offence is to be trenched upon.

13. Now adverting to the present case. The petitioners have been booked and challaned for commission of offence punishable under Section 380 of IPC on the allegations that on 10.01.2012, they along with some other employees of the company had committed theft of aforementioned articles from the premises of the school of the complainant. The offence of theft is defined under section 378 of IPC and the punishment thereof is prescribed in Section 379 of IPC. A person is said to have committed the offence of theft as defined in Section 378 of IPC in the following circumstances:-

(a) if he removes movable property;

(b) from out of possession of another;

(c) without that person's consent;

(d) in order to take it dishonestly.

14. The offence under Section 380 of IPC is an aggravated form of offence of theft. Section 378 is the genus and Section 380 is one specie of the offence of theft. The aggravation lies in the fact that theft of property if

committed in a building, tent or vessel, makes it punishable under section 380 of IPC.

15. Keeping in view the above discussed position of law, it is to be seen as to whether a case for quashing of the FIR has been made out or not? The petitioners have taken pleas that they had no occasion to visit the premises of the school of respondent no. 2 on 10.01.2012 and they have given specific reasons for the same in the petition. In their respective replies, neither respondent no. 2 nor respondent no. 1-State have controverted these pleas. More so, from a bare perusal of the contents of the FIR (Annexupre P-10), it is revealed that the allegations levelled were that on 10.01.2012. Petitioner Jiwanpal Singh along with co-accused had gone to school and had taken aforementioned articles from the premises of the school. There was no allegation that petitioners no. 1 and 2 had taken any article belonging to respondent no. 2 or his school. So far as petitioner no. 3 Jiwanpal Singh is concerned, even if it is presumed that any article belonging to respondent no. 2 was taken away by him, still it has not been even *prima facie* established that the said article belonged to respondent no. 2 because in the FIR itself, it was alleged that out of the stolen articles, 21 hard discs and CPUs were not the property of the company/accused persons. Meaning thereby that the other articles were the property of the company and therefore the question of committing theft of the same by the employees of the company did not arise. Neither any invoices qua purchase of the alleged stolen articles nor any inventory has been made part of the record nor has any material been placed on record to show the brand/make of alleged stolen articles. All this creates a doubt about the veracity of the allegations in the FIR.

16. Still further, the version in the FIR is quite improbable and it cannot be accepted on one more count. The occurrence is alleged to have been taken on place 10.01.2012. However, the matter was reported to the police on 18.02.2015 and FIR was registered after a gap of 03 years and 6 months. There is no explanation whatsoever in the FIR for the delay in lodging of the same. It is not the version of the respondents that respondent no. 2 did not come to know about the factum of theft for 3 ½ years. It is well settled proposition of law that the delay in lodging of FIR results in embellishment, which is a creature of an afterthought. On account of delay, a danger creeps in about the introduction of an exaggerated version and a doubt arises about the truthfulness of the allegations made. The promptness in lodging of FIR reflects first hand account of what has actually happened and who was responsible for offence in question. Reliance in this regard can be placed upon the observations made in ***Manoj Kumar Sharma***'s case (supra) and ***Vijay Kumar Ghai***'s case (supra). In the instant case, no explanation for the delay in lodging of FIR has been given and as such, a doubt has reasonably created that the FIR was lodged with an ulterior motive for wrecking vengeance. The same do not warrant continuation of criminal proceedings which have been substantially delayed and appear to be a result of afterthoughts. The allegations in the FIR are also not only vague but also improbable and unnatural. The evidence collected in support of the same does not disclose commission of offence under Section 380 of IPC as against the petitioners.

17. Given the totality of the facts and circumstances, I am of the considered opinion that the allegations as levelled by the complainant

against the petitioners, as they are, are wholly insufficient and *prima facie*, do not make out a case against them. As such, permitting the criminal process to go on against the petitioners in such a situation, would, therefore, result in clear injustice and hence, it is a fit case for this Court to exercise its inherent powers under Section 528 of BNSS *(which is pari materia with Section 482 of Cr.P.C.)* and to quash the FIR and consequential proceedings as against the petitioners and it would be unjust to force them to face the ordeal of the trial for commission of the aforementioned offences. Accordingly, the present petition is allowed. The FIR No. 119 dated 14.08.2016, registered under Sections 380 and 120-B of IPC at Police Station Meharban, District Ludhiana and the consequential proceedings arising therefrom, are ordered to be quashed qua the present petitioners.

18. Miscellaneous application(s), if any, also stand disposed of.

28.05.2025 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes*

Whether reportable *Yes*