



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-20387-2025

Date of decision: 21st April, 2025

Dharampal and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Aashna Aggarwal, Advocate for the petitioner.

Mr. Apoorv Garg, Sr. DAG, Haryana.

MANISHA BATRA, J (ORAL):-

1. The petitioners are seeking quashing of FIR No. 047 dated 31.01.2024 registered under Sections 186, 332, 353 and 506 read with Section 34 of IPC at Police Station Kharkhoda, District Sonapat, the challan report filed under Section 173 of Cr.P.C. therein as well as the consequential proceedings having emanated therefrom.

2. Brief facts relevant for the purpose of this petition are that the aforementioned FIR was registered on the basis of statement of Sandeep Kumar, Secretary, Municipal Council, Kharkhoda alleging that on 31.01.2024 at about 10:30 AM, two officials of the Municipal Council, namely Sonu Parokar and Krishan Kumar had gone to give notice to petitioner No.1 regarding illegal construction being done by him on a property without permission of the Municipal Council and without getting any site plan sanctioned. The petitioners who were present there, refused to



take notice, extended beatings to Sonu Parokar and also extended threats to kill the officials. After registration of FIR, investigation proceedings were initiated. The petitioners were arrested on 01.02.2024 and were subsequently released on bail. Challan has since been presented. Charges have been framed against the petitioners and they are facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioners that the impugned FIR is not sustainable in the eyes of law and is liable to be quashed in view of the fact that the petitioner No.1 is owner in possession of 900 square yards of land situated in *abadi deh* of village Kharkhoda. His possession over this land is since the time of his forefathers. This property is bounded by a boundary wall. He has been making payment of property tax. Petitioner No.1 had filed a civil suit seeking injunction against the Municipal Council, Kharkhoda thereby restraining it and its officers from interfering in his peaceful possession over this plot. The said suit has been decided in favour of the petitioner No.1 vide judgment and decree dated 16.02.2023 and the Municipal Council and its officials are restrained from interfering in peaceful possession and enjoyment of the petitioner No.1 over the aforementioned property.

4. It is further submitted that the petitioner has also filed a contempt petition against the Municipal Council and its officials, which is pending. An appeal against the judgment and decree dated 16.02.2023 as filed by Municipal Council is pending before the First Appellate Court. Infact, the officials of the Municipal Council want to grab the property of petitioner No.1 by one way or the other and have been harassing him. On



31.01.2024, a team of officials of Municipal Council led by the complainant had reached at the spot. The petitioner No.1 had called the police to protect himself and his property but instead of protecting the interest of the petitioner, they informed about having directions from Additional Commissioner of Police, Kharkhoda to demolish the property of the complainant. The petitioner No.1 had shown orders passed by the Civil Court but SHO, PS Kharkhoda who had reached at the spot along with police forces had started demolishing the construction raised by the petitioner No.1 with the help of JCBs and thereafter, this case was falsely lodged against petitioner No.1 and his sons i.e. petitioners No.2 and 3.

5. It is argued that no injury has been sustained by either of the officials of the Municipal Council. Only superficial abrasion has been received by one of the alleged victim. No case for commission of offences punishable under Sections 332, 353 and 506 of IPC has been made out against them and they have been wrongly charge-sheeted. While booking them for commission of offence of punishable under Section 186 of IPC and charge sheeting them thereunder, the police and the learned trial Court ignored the fact that in view of the bar created under Section 195 of Cr.P.C., cognizance of offence under Section 186 of IPC could not be taken and hence no charge could be framed as against the petitioners. It is further argued that the prosecution of the petitioners is nothing but is an abuse of process of law. There are no chances of their being convicted for the aforementioned allegations. With these broad submissions, it is urged that the petition as well as the proceedings emanated therefrom are liable to be quashed.



6. Mr. Apoorv Garg, Sr. DAG, Haryana has advance notice of the petition and is ready to argue the matter. It is submitted by him that the thorough investigation has been conducted in the matter by collecting evidence and recording statements of witnesses. Charge-sheet has also been filed. Even charges have been framed. This Court cannot appreciate the evidence at the stage of quashing the proceedings as powers under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') (which is *pari materia* with Section 482 of Cr.P.C.) are to be exercised in exceptional circumstances. It is, accordingly, urged that the petition does not deserve to be allowed.

7. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

8. The petitioners have been booked for commission of offences punishable under Sections 186, 332, 353 and 506 read with Section 34 of IPC, on the allegations that on 31.01.2024, when the officials of Municipal Council, Kharkhoda had gone to serve notice upon them, the petitioners had caused obstruction in discharge of their public functions by assaulting them and had voluntarily caused hurt to them to deter them from their duty which they were performing in their capacity as public servants and they were also criminally intimidated. As stated by learned counsel for the petitioners, they have also been charge-sheeted for aforementioned offences. So far as the charge under Section 186 of IPC is concerned, this Court finds force in the argument raised by learned counsel for the petitioner to the effect that cognizance thereunder could not be taken by the trial Court in view of the bar created under Section 195 of Cr.P.C.. As per Section 195(1)(a) of the



Code, no Court shall take cognizance of any offence punishable under Section 186 of IPC except on the complaint in writing of the public servant concerned or some other public servant to whom he is administratively subordinate, before the Court itself. Since, there is no complaint in writing of the complainant to directly to the Court concerned, therefore, neither the learned trial Court could take cognizance of this offence nor charge under that Section should have been framed. As such, the petition deserves to be allowed at that extent.

9. However, so far as the remaining offences i.e. offences punishable under Sections 332, 353 and 506 read with Section 34 of IPC are concerned, I am of the considered opinion that no case for interference by this Court while exercising jurisdiction under Section 528 of BNSS is made out. The parameters governing the exercise of jurisdiction of this Court under the aforementioned provision are well settled.

10. 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. 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 its inherent powers, 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 and to secure the ends of justice or 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 several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

“(a) 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;

xxx xxx xxx xxx

(c) 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;

xxx xxx xxx xxx

(e) 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;

xxx xxx xxx xxx

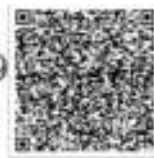
(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously



instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

11. Reference can further be made to ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, wherein Hon'ble Supreme Court has 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 plenitude 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 also be made to ***Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy and others, (2011) 12 SCC 437***, wherein it was observed that the inherent power under Section 482 Cr.P.C. can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. Reliance can further be placed upon ***State of Andhra Pradesh vs. Gourishetty Mahesh and others, 2010 Criminal Law Journal 3844***, wherein the Apex Court has propounded that while exercising jurisdiction under Section 482 Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it, accusation would not be sustained as that is the function of the trial Court.

12. It is also well settled proposition of law that the exercise of powers under Section 482 Cr.P.C. to quash proceedings is an exception and



not a rule. In ***Dr. Monica Kumar and another vs. State of U.P. and others, (2008) 8 SCC 781***, the Apex Court has propounded that the inherent jurisdiction under Section 482 Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to whims and caprice. In ***Taramani Parakh vs. State of M.P. and others, 2015 (2) RCR (Criminal) 445***, Hon'ble Supreme Court has held that Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but on an opinion formed prima facie. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied, if there is substantial compliance with the requirements of the offence.

13. It is also well settled that if a petition under Section 482 Cr.P.C. has been filed at the stage of investigation, then it is only required to be considered whether a cognizable offence is disclosed or not? However, when the statements of the witnesses are recorded, evidence is collected and the chargesheet is filed after conclusion of investigation/enquiry, the matter



stands on a different footing and the Court is required to consider the material/evidence collected through investigation. Even at that stage, the High Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting trial. If in order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof. At this stage, the High Court cannot appreciate the evidence as to whether it can draw its own inference from the contents of the FIR and the material relied on it. The appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C. Reference in this regard can be made to the observations made by Hon'ble Supreme Court in *Kaptan Singh vs. State of U.P. and others, 2021 SCC Online SC 580*. In *Dhruvaram Murlidhar Sonar vs. State of Maharashtra, (2020) 3 SCC (Criminal) 672*, wherein Hon'ble Supreme Court has observed that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. Inherent jurisdiction under Section 482 Cr.P.C. though is to be exercised sparingly, carefully and with caution only when such exercise is justified by the tests specifically laid down the section itself. It is further observed that the appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C.

14. On applying the ratio of law as laid down in the above cited



cases to the peculiar facts and circumstances of the present case, I am of the considered opinion that no case for quashing of FIR or the consequential proceedings emanating therefrom including the challan report and order framing charges for commission of offences punishable under Sections 332, 353 and 506 read with Section 34 of IPC has been made out except that part of the order passed by the Magistrate whereby charge under Section 186 of IPC has been framed as against the petitioners. In the complaint filed before the police, the respondent No.2 complainant had levelled specific allegations that on 31.01.2024, the petitioners in furtherance of their common intention had caused obstruction in performing their duty to deter them, had voluntarily caused hurt to Sonu Parokar, an official of the Municipal Council, Kharkhoda thereby assaulting him to deter him from discharge of their duties and also extended threats to kill Sonu Parokar and Krishan Kumar both officials of Municipal Council, Kharkhoda. On the basis of these allegations, it cannot be stated that no case for commission of offences punishable under Sections 332, 353 and 506 read with Section 34 of IPC has been made out as against the petitioners. It would be pre-mature to say so and aforesaid aspect is to be considered during trial which has commenced and there is nothing to show that there would be any undue delay in conclusion of the same. However, so far as the offence under Section 186 of IPC is concerned, in view of the fact that as per Section 195 (1)(a) of the Code, no Court can take cognizance of any offence punishable under Section 186 of IPC except on the complaint in writing of the public servant concerned or some other public servant should whom he is administratively subordinate before the Court itself and since, this provision is not shown to



be complied with, in my considered opinion, charge framed thereunder is liable to be quashed.

15. There are triable issues/allegations, which are required to be gone into and considered at the time of trial. As such, it would amount to exceeding jurisdiction by this Court to enter into the merits of the allegations for consideration of question of quashing criminal proceedings in exercise of powers under Section 528 of BNSS. In view of the reasons stated above, the petition is partly allowed and the order of framing charge under Section 186 of IPC passed by learned trial Court is ordered to be quashed. However, the prayer for grant of remaining reliefs claimed by the petitioners is rejected and qua those reliefs, the petition is dismissed.

16. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 528 of BNSS only and the trial Court is to decide the case in accordance with law and on its own merits and on the basis of evidence to be led without being influenced by any observations made by this Court hereinabove, so far as the offences under Sections 332, 353 and 506 read with Section 34 of IPC are concerned.

17. The petition stands disposed of accordingly.

[MANISHA BATRA]
JUDGE

21st April, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*