



**273 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-2265-2024 (O&M)

Date of decision: 15.05.2025

VIKESH SATIJA

F

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anil Shukla, Advocate
for the petitioner.

Mr. Harkesh Kumar, AAG Haryana.

Mr. Deep Inder Singh Walia, Advocate for respondent No. 2.

HARPREET SINGH BRAR, J. (ORAL)

1. Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No. 391 dated 28.05.2022 registered under Sections 287, 337, 338 Indian Penal Code at Police Station Sector-58, Faridabad.

2. FIR(supra) was registered on the statement of Pramod Kumar who stated that he is resident of Nangla Karan Singh Firozabad. Delhi. He has been working as a guard for the last 1.5 years in the TECHNOSHINE COMPANY PLOT NO.337 SECTOR 58 FARIDABAD for Absolute Security Company New Delhi. On 11/04/2022 he was on duty. The Condom Boiler installed by the owner in the company exploded at around 1:30 in the afternoon due to which there was such a huge explosion, that the car parked on the side overturned and got damaged and the complainant got badly burnt and the Condom Iron Pipes installed above in the company fell on him due to which his head got hurt badly. Company Owner Mr. Vikash Satija got him admitted to the Dr. Nayyar Hospital NIT fruit Garden Faridabad and assured him that they will provide complete treatment and also provide all kind of help. On 27/04/2022, he was forcibly got discharged from the hospital by the



company owner-Mr. Vikash Satija. At that time he was completely burnt and his eyes were also burnt and he made him stand on the road and went away. From that day onwards, neither did he get any treatment nor any kind of financial help. Company Owner Mr. Vikash Satija threatened him that now he will neither get treatment nor any help and told him to do whatever he can. Complainant's family members also filed a complaint about this incident on 11/04/2022 in Police Station Sector-58. Faridabad. On the said allegations, FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that complainant was duly insured with the Employees State Insurance Corporation and has been getting the treatment as well as the financial help from the ESI Corporation. Further, there is no report from any government official under the Factories Act and also there is no document on record to show the negligence of the petitioner. Further, the complainant was working as a security guard and posted on the main gate and he was engaged through the contractor and the complainant was not supposed to enter the premises as he has to maintain the security at the main gate. Thus, registration of the FIR(*supra*) is clearly an abuse of the process of law. Further, the factual ingredients breaching the threshold of Sections 287, 337 and 338 of IPC are clearly missing. He further submits that, final report under Section 173 Cr.P.C. has been filed but charges are yet to be framed and the petitioner is having clean antecedents.

4. *Per contra*, learned State counsel opposes the prayer made by the petitioner on the ground that probable defence set up by the petitioner can only be gone into by learned trial Court on the basis of evidence adduced by the parties and whether offences under Section 287, 337 and 338 of IPC are made



out or not, would be seen by the trial Court, at the time of framing of the charges.

5. Having heard learned counsel for the parties and after perusing the record of the case, this Court finds no merit in the present petition as the disputed question of facts can be determined only on the basis of the evidence led by the parties. The probable defence set up by the petitioner, in the present petition, cannot be appreciated at this stage.

6. It is settled law that disputed questions of fact can only be adjudicated after the parties have duly adduced their evidence. The High Court, in exercise of its inherent powers under Section 482 Cr.P.C is obliged to make a just and equitable choice and cannot go beyond its ambit to evaluate the truthfulness of the allegations or the veracity of the defence, however, convincing it might seem. Any such attempt would be impermissible in law as it would amount to giving finality to the accusations even before the prosecution is allowed to adduce evidence to substantiate the same.

7. A two Judge Bench of the Hon'ble Supreme Court recently examined this issue in ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT of Delhi) and another*** 2022 SCC Online SC 513 and speaking through Justice

Hrishikesh Roy, made the following observations: -

“17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum, i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance



of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”

8. A two Judge Bench of the Hon’ble Supreme Court in ***HMT Watches Ltd Vs. M.A. Abida (2015) 11 SCC 776*** has held as under: -

“10..... Whether the cheques were given as security or not, or whether there was outstanding liability or not is a question of fact which could have been determined only by the trial court after recording evidence of the parties. In our opinion, the High Court should not have expressed its view on the disputed questions of fact in a petition under section 482 of the Code of Criminal Procedure, to come to a conclusion that the offence is not made out. The High Court has erred in law in going into the factual aspects of the matter which were not admitted between the parties.”

9. In ***Sampelly Satyanarayana Rao Vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458***, decided by the Hon’ble Supreme Court, following observations were made: -

“17. As is clear from the above observations of this Court, it is well settled that while dealing with a quashing petition, the Court has ordinarily to proceed on the basis of averments in the complaint. The defence of the accused cannot be considered at this stage. The court considering the prayer for quashing does not adjudicate upon a disputed question of fact.”

10. In view of the above discussion, this Court cannot examine the probable defence of the petitioner set up in the present petition and scuttle the proceedings before the trial Court. The disputed questions of fact and the probable defence of the petitioner can only be seen by the trial Court on the basis of evidence adduced by the parties.



11. Accordingly, present petition stands dismissed being bereft of any merit.
12. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.
13. However, petitioner would be at liberty to file a fresh petition seeking quashing of FIR(supra) on the basis of compromise as the learned counsel for the petitioner has submitted that a compromise has been effected between the parties.

May 15, 2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |