



2025:DHC:11687



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ **CRL.A. 203/2024 and CRL.M.A. 7140/2024**

SK SINGH

.....Appellant

Through: Mr.Pramod Kumar Dubey, Sr. Advocate
with Ms.Charu Tomar, Mr.Sachin, Mr.Aditya
Malhotra and Mr.Vinod Mehta, Advocates

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Pradeep Gahalot, APP for State
with Insp.Vikas
Mr.Mehmood Pracha, Mr.Jatin Bhatt, Mr.Sanwar,
Mr.Kshitij Singh, Ms.Nujhat Naseem, Mr.Sikander
and Mr.Kumail Abbas, Advocates for complainant

+ **CRL.A. 204/2024 and CRL.M.A. 7153/2024**

MANJU SINGH

.....Appellant

Through: Mr.Pramod Kumar Dubey, Sr. Advocate
with Ms.Charu Tomar, Mr.Sachin, Mr.Aditya
Malhotra and Mr.Vinod Mehta, Advocates

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Pradeep Gahalot, APP for State
with Insp.Vikas
Mr.Mehmood Pracha, Mr.Jatin Bhatt, Mr.Sanwar,
Mr.Kshitij Singh, Ms.Nujhat Naseem, Mr.Sikander
and Mr.Kumail Abbas, Advocates for complainant

+ **CRL.A. 205/2024 and CRL.M.A. 7159/2024**

SANDEEP KUMAR DAHIYA

.....Appellant

Through: Mr.Pramod Kumar Dubey, Sr. Advocate

Signature Not Verified

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By:NIJAMUDDIN ANSARI
Signing Date:20.12.2025
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CRL.A. 203/2024 & other connected matters

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CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of the present appeals, the appellants seek setting aside of the order dated 25.01.2024 passed by ASJ-02 (North), Rohini Courts, New Delhi whereby cognizance has been taken and appellants have been summoned in the proceedings arising out of FIR No. 351/2021 registered at P.S. Mukherjee Nagar, Delhi. The appellants also seek quashing of the aforesaid FIR.
2. The appellant/S.K. Singh was posted as DCP (Communication) at the time of the incident. The appellants Manju and Ct. Sandeep Kumar Dahiya are his wife and driver respectively. The complainant was their neighbour and the daughter of ASI Satpal Singh. Her sister, brother and mother also used to reside with them.
3. On 18.07.2021, 4 DDs were received at PS. Mukherjee Nagar; DD No. 27A @ 12.26 PM, DD No. 32A @ 02.07 PM, DD No. 33A @ 02.11 PM and DD No. 34A @ 02.12 PM. The first 3 DDs were about the appellants/S.K. Singh and Manju attacking the sister/daughter of the caller.



ASI *Dinesh Kumar* along with Ct. *Nitin* went to the place of incident at Flat No. J-3, Type-II, NPL colony, Kingsway camp. The daughter of ASI *Satpal*, 'D' had been taken by family members to BJRM hospital. 'D' gave her written statement to police, as per which some construction work was going on at her residence. When the labourers tried to go outside, DCP *S.K. Singh* and his wife stopped them from working and misbehaved with them. They also put one of their cars in front of her house in a manner that nobody could go out. When the complainant and her family tried to stop them, they abused her and threatened that they would not let them live there. They also threw a lock at *Shivani*, the sister of 'D'. Appellant/*Manju* hit a lamp at the complainant's house and she also hit 'D' on the head using a bat, abused and threatened to kill her. Appellant/ *S.K. Singh* threatened that he would get their house vacated by evening. On the basis of this complaint, FIR was registered under Sections 308/109/506(II)/509/34 IPC.

4. On 20.07.2021, a cross FIR bearing No. 352/2021 came to be registered at the behest of appellant/*Manju*. In the present FIR, an additional complaint came to be given on 21.07.2021. The statement under Section 164 CrPC was recorded on 26.07.2021. Subsequently, a supplementary statement was recorded on 01.08.2021. Chargesheet was filed on 18.09.2021 under Sections 308/354/451/109/341/427/509/506/34 IPC and Sections 3(1)(v)(x)(xi)(xiv),(r),(s),(w)(i)(ii) of the SC/ST (POA) Act. Vide the impugned order, cognizance was taken for the aforesaid offences and the protest petition along with the application under Section 15-A of the SC/ST Act preferred by the complainant were dismissed.

5. Learned Senior Counsel for the appellants submits that the appellants are innocent and have been falsely roped in the present criminal proceedings



by the complainant/respondent No.2, the daughter of ASI *Satpal Singh* who is their neighbour and was carrying out unauthorised construction, which was opposed by the appellants. It is submitted that in the initial complaint dated 19.07.2021, there were no allegation of casteist remarks and the same have been made belatedly in an additional statement recorded on 21.07.2021 only against the appellant/*manju*. In the statement under Section 164 CrPC recorded on 26.07.2021, many prior incidents have been mentioned for the first time but interestingly, no caste allegations were made against any appellant for the incident which occurred on 19.07.2021. To fill this lacunae, a supplementary statement of the complainant was recorded on 01.08.2021, which is impermissible in law. Reliance is placed on the decisions in Deepa Bajwa v State¹, Majhar@Papoo v. State², Prashant Bhaskar v State (Govt. of NCT of Delhi)³, Aseem Mowar v. State and Another⁴, and Asit Mukherjee v State.⁵

6. Insofar as caste allegations are concerned, it is submitted that the allegations for the incident dated 19.07.2021 were initially made only against the appellant/*manju* and *S.K. Singh* has been roped in by way of the supplementary statement. No caste allegations were made in the MLC either. It is submitted that Section 3(1)(v)(x)(xi)(xiv) of SC/ST (POA) Act stood substituted by Section 3(1) w.e.f. 26.01.2016 and hence cognizance could not have been taken *qua* them. Reliance is placed on Jugal Kishore v. State of Rajasthan.⁶ For the offence under Section 3(1)(r) and (s) SC/ST Act, it is submitted that merely being from a scheduled caste is not enough to

¹ 115 (2004) DLT 202

² (2002) 96 DLT 566

³ CrI. Rev. Petition No. 385/2009 decided on 22.09.2009

⁴ 2025 SCC OnLine Del 549

⁵ 2024 SCC OnLine Del 1876



attract the provision and there should be intention to humiliate on account of it, relying on Hitesh Verma v. State of Uttarakhand.⁷ No public person has been cited as a witness to prove the existence of 'Public View', and in view of Daya Bhatnagar v State⁸, *Shivani Singh*, being the sister of the complainant, is an interested witness and does not constitute public view. Mukesh Kumar Saini & Ors v. State⁹ is cited to argue that omnibus allegations cannot be made under the SC/ST Act. It was further submitted that there was no allegation of touch of sexual nature or words, acts, gestures of a sexual nature to constitute an offence under Section 3(1)(W)(I) and (II) SC/ST Act (Ramezfagiri v. State¹⁰).

7. Section 308 IPC is argued to be not made out, because the injury was simple in nature and not intended to cause death (Surinder Kumar v. State¹¹). Section 506 is not made out because alleged threat had not caused her any alarm (Kanshi Ram v. State¹²). The allegations of 'sexual remarks' necessary to attract Section 509 IPC were made belatedly in the Section 164 statement. Section 451 was not made out as the property in question was not possessed by the complainant or her family, as is evident from the Ownership Record and Statement under Section 161 CrPC of Insp. *Ashok Kumar*. Section 341 IPC is not made out because as per the complainant, only the *reddi* was blocked and not any right of way. For Section 354 IPC, it is contended that the complainant's statements are vague, omnibus and insufficient. The appellant/*S.K. Singh* was fulfilling duties enshrined under

⁶ CRL. MP 2864/2012 Order dated 24.01.2025

⁷ (2020) 10 SCC 710.

⁸ 109 (2004) DLT 915

⁹ 94 (2001) DLT 241

¹⁰ 2023 SCC OnLine Del 5741

¹¹ 64 (1996) DLT 620

¹² 86 (2000) DLT 609



Section 60 (c) and (f), Delhi Police Act by stopping ASI *Satpal* from creating public nuisance by doing unauthorised construction (Diganta Barah v. State of Assam).¹³ No sanction was obtained under Section 197 CrPC and Section 140, Delhi Police Act. For appellant/*Sandeep Dahiya*, it is submitted that the allegations were made only under Section 164 CrPC and he was not present on the date of the incident.

8. Summing up, it is argued that cognizance cannot be taken on mere suspicion and there needs to be some material on the basis of which cognizance is taken and summons are issued. Reliance is placed on Harishchandra Prasad Maini & State of Jharkhand. 1 (2007) DLT (Crl.) 563 (SC). Summoning Order must show application of mind and trial courts cannot issue summons to accused without proper reasons. Reliance is placed on Rasiklal Mohanlal Gangani v. State¹⁴.

9. Learned counsel for the respondent submits that the present appeal is meritless as all the offences for which cognizance has been taken by the learned Trial Court are made out. Placing reliance on Union of India v. State of Maharashtra and Ors.¹⁵ it is contended that all offences under SC/ST Act are cognizable. It is submitted that lacunae's were deliberately created to benefit the appellant/*S.K. Singh* since he is a senior police officer. It is submitted that the offences under the SC/ST Act occurred in public view as labourers were present, however, they have deliberately not been cited as witnesses. Since the appellants were neighbours of the complainant and had a history of complaints, they had personal knowledge of the complainant's family and hence, in lieu of Section 8 (b) and (c) of the SC/ST Act, a

¹³ 2023 SCC OnLine Gau 2638

¹⁴ CRL. MC. 6012/2019

¹⁵ MANU/SC/1351/2019



presumption was raised that they were aware of the caste identity of the victim. It is submitted that taking cognizance of the offences under SC/ST Act which stand substituted is a mistake but not fatal to the prosecution case as the impugned order records in Para 8 that the same can be considered at the stage of charge. Any discrepancies between the statements of witnesses, or appreciation of other evidence, including CCTV footage is a matter of trial. It is further contended that 3 GD entries within 2 hours show the urgency of the situation. In the statement under Section 164 CrPC, multiple incidents of caste remarks and other offences are mentioned and the same being recorded belatedly was entirely in the hands of the IO. In the MLC of the complainant, one CLW (1 x 0.5 cm) lateral to left eyebrow was recorded. The appellant/*manju* in her cross FIR, admits hitting the lamp with a bat. The bat used in the incident is also seized. There is no question of any unauthorised construction as the labourers were sent by the Estate Branch. SC/ST Act has been enacted to give effect to Article 17, in its true intent and spirit (National Campaign on Dalit Human Rights and ors v. Union of India and ors¹⁶). All the witnesses who have stated that nothing happened are subordinates of the appellant/*SK Singh*.

10. Distinguishing the decisions cited by the appellants, it is contended that in Jugal Kishore (Supra), Prevention of Food Adulteration Act, 1954 was not in existence when the food inspector started the proceedings. Deepa Bajwa (Supra) was prior in time to the amendment vide which Section 8 (c) was introduced in the SC/ST Act and therein, the persons had met for the first time. Husna (Supra) was post-conviction wherein the presence of the accused was disputed, however in the present case, there is a counter FIR

¹⁶ MANU/SC/1615/2016



and the presence is not disputed. Hitesh Verma (Supra) was at the post charge stage and therein the incident occurred within four walls, while the present incident was in a place visible to general public. In Daya Bhatnagar (Supra), it was held that interested witnesses could not constitute public view. Herein, the labourers were not interested witnesses, though they have not been cited as witnesses. Mukesh Kumar Sahni (Supra) was in the context of anticipatory bail application. In Kanshi Ram (Supra), the complainant had continued asking questions despite threats and was thus not affected by them. Here the incident has occurred in front of the complainant's house and injuries have also been caused. Surinder Kumar and Prashant Bhaskar (Supra) were at the stage of charge which has not come yet in the present case. Majhar @ Papoo (Supra) was after the charges framed and in that case, the victim in his first statement has said that he did not suspect anyone and then later gave names, no such improvement lies in the present case. Diganta Barah (Supra) was distinguishable because in that case, the police officer was in charge of the entire district, including his own house. In the present case, the appellant/S.K. Singh was not on field duty, and he attacked himself instead of directing someone to arrest.

11. In rejoinder, it is submitted that the complainant had already filed a protest against the chargesheet which stands dismissed by the impugned order and the same is not under challenge. The FIR does not disclose any overt act on part of S.K. Singh. Even if it is assumed that S.K. Singh handed over the bat to Manju, the first act was of hitting the lamp and the act of hitting the complainant cannot be attributed to S.K. Singh by way of Section 34 since there was no common intention.

12. Learned APP for the State adopts the submission of learned counsel



for the complainant and opposes the present appeals. He further submits that the CCTV footage does not contain audio, but the recordings from the mobile phone do.

13. I have heard learned counsel for the parties and gone through the record. The contents of the initial complaint have already been mentioned in Para 3. It would be beneficial to mention briefly the contents of the cross FIR as well as subsequent statements in the present FIR.

14. On 20.07.2021, the cross FIR No. 352/2021 was registered at the behest of appellant/*Manju*. She alleged therein that some unauthorised construction was going on and ASI *Satpal Singh's* family used to throw garbage, spread clothes and feed dogs in front of her house and had altercations with her drivers when they tried to park the cars. On the day of the incident, when she tried to intervene when some *redi* came to the complainant's house, ASI *Satpal's* son *Karan* hit threw stones, and threatened to break her windows. ASI *Satpal's* wife and two daughters started abusing her, upon which *Manju* threw her keys. When *Karan* threw a stone at her window, in retaliation, she hit the lamp of their house with a bat. She said that the ASI *Satpal's* family used to threaten to level caste allegations against them.

15. In the present FIR, an additional complaint came to be filed on 21.07.2021. It was stated that appellant/*Manju* stopped the labourers and abused them. She also tried to lock the gate of the complainant's family and when they resisted, she used casteist words and said "*tum bhXXXXXXn ko yaha rehne nahi denge.*" They had said these words earlier as well and used to spit upon seeing them. *SK Singh* and *Manju* started abusing them and *SK Singh* threatened to slap her sister *Shivani* and started abusing them,



threatened to get them evicted by evening, and ordered his car to block their gate. *Manju* abused *Shivani*, and threw a lock at her. *SK Singh* brought a bat from his house, handed it to *Manju* who used it to hit the lamp and when the complainant resisted, hit her on the head saying “*aaj mai tumhe jaan se maar dunga tumhara khel hi khatam karti hu*”, which caused an injury near her left eye. *S.K. Singh* and *Manju* frequently used casteist words, spit when looking at them, threatened to murder, rape and get their house emptied.

16. The statement under Section 164 CrPC came to be recorded on 26.07.2021. Some instances of previous altercations between the two parties were given. They are stated hereunder:-

- 13.11.2020- *D.K Singh* and his wife threatened the grandfather of the complainant when he refused to let them use the garden for parking and making a room for their driver and operator, due to which his health worsened.
- One week after Diwali, 2020- When the mother of complainant refused to *Manju*'s request for parking, *Manju* said “*hume tum chXXe-chXXXXr se ache se deal karna aata hai. Hum Rajput hain.*”
- 05.01.2021- *S.K. Singh* sent his driver *Sandeep* and another person to remove hedges. When complainant's mother intervened, *Sandeep* threatened to kill her and said “*tum chXXe chXXXXr bXXXXi ko sabak sikhana ache se aata hai*”. A complaint in this regard was given in PS. Mukherjee Nagar but no action was taken.
- 15.01.2021- when her sister went to complaint, 8-10 staff members from communication, Shalimar Bagh including 2 ladies removed all hedges, flower pots of the complainant's house, and started parking the cars in the garden. The driver of DCP gave beatings to her



grandfather. Later that night, *Sandeep* dragged the complainant and her aunt towards a gypsy car. Complaint was given to SHO, Mukherjee Nagar, but no action was taken. DCP and his wife turned away the police responding to the PCR Call.

- Some days after the preceding incident- when the complainant was sweeping the garden, *Manju* said “tum bhXXXXXXo ka yahi kaam hai jhaadu lagana” and threatened to get her raped from her driver.
- 22/23.01.2021- *Manju* said that she would get complainant and her sister raped, and *Sandeep* who was present there said that he would do it.
- 26.02.2021- *Sandeep*, at the behest of *S.K. Singh*, bought a *darati* and cut the trees at their house. When they tried to stop him, he said “*tumhe bhi kaat dunga*”
- March 2021- They had their garden blocked by putting a shed.
- June 2021- got a car parked in front of their house and said “*subah subah tum bhXXXXXXn ki shakal dekh kar sara din kharaab hojata hai. Isliye tum peeche ke gate se jao.*”
- June 2021- When the shed was removed, *manju* said to Insp. *Ashok* from the Estate Branch to take any girl he liked from the complaint’s family. That night, driver of the DCP locked the gate of their house. When *Manju* came to check the lock on 6 July, finding it open, kicked the gate, and slapped the sister of the complainant and spitted on them.
- The incident on 18.07.2021, which led to the present FIR.

17. A supplementary statement came to be recorded on 01.08.2021. She narrated the various incidents mentioned in her statement under Section 164



CrPC. In relation to the incident dated 18.07.2021, she stated that *S.K. Singh* also used casteist words and *Sandeep* on 19 february said “*tum bhXXXXXn ko main sabak sikhaunga tum bahar milo tumhe uthwa dunga.*”

18. The appellants seek quashing of the FIR and the order taking cognizance. The inherent power of the High Court can be exercised to prevent the abuse of process of Court or to secure ends of justice. The Court would be justified in quashing if the uncontroverted allegations in the FIR or complaint and the evidence collected in support of the same do not prima facie constitute any offence. In the landmark case of State of Haryana v. Bhajan Lal,¹⁷ Supreme Court has illustrated the categories of cases wherein the inherent powers of this Court could be exercised. These illustrations, though not exhaustive, are still important to be kept in mind by this Court while exercising its discretion. They are being reproduced below for convenience:-

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.

- (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.*
- (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*

¹⁷ 1992 Supp (1) SCC 335



- 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- (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.*

19. This Court while exercising its inherent powers in assessing whether an FIR can be quashed, cannot delve deep into the merits of the case and conduct a detailed enquiry. A reference may be made to the case of Mohd. Allauddin Khan v. State of Bihar¹⁸, wherein the Supreme Court has held that:-

13. The second error is that the High Court in para 6 held that there are contradictions in the statements of the witnesses on the point of occurrence.

14. In our view, the High Court had no jurisdiction to appreciate the evidence of the proceedings under Section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") because whether there are contradictions or/and inconsistencies in the statements of the witnesses is essentially an issue relating to appreciation of evidence and the same can

¹⁸ (2019) 6 SCC 107



be gone into by the Judicial Magistrate during trial when the entire evidence is adduced by the parties. That stage is yet to come in this case.

On the aspect of scope of enquiry at the stage of Section 482 Cr.P.C., the Supreme Court in the case of State of Madhya Pradesh v. Kunwar Singh¹⁹, has held that the High Court is not to scrutinise the evidence in the manner a Trial Court would, while considering quashing. It held as follows:-

8. Having heard the submissions of the learned counsel appearing on behalf of the appellant and the respondent, we are of the view that the High Court has transgressed the limits of its jurisdiction under Section 482 of CrPC by enquiring into the merits of the allegations at the present stage...

... At this stage, the High Court ought not to be scrutinizing the material in the manner in which the trial court would do in the course of the criminal trial after evidence is adduced. In doing so, the High Court has exceeded the well-settled limits on the exercise of the jurisdiction under Section 482 of CrPC. A detailed enquiry into the merits of the allegations was not warranted. The FIR is not expected to be an encyclopedia, particularly, in a matter involving financial irregularities in the course of the administration of a public scheme. A final report has been submitted under Section 173 of CrPC, after investigation.

20. A Reference may also be made to the 3-Judge Bench decision of Supreme Court in Abhishek v. State of M.P.²⁰ held that High Court should not enter into an enquiry about the genuineness of the allegations, holding :-

15. The contours of the power to quash criminal proceedings under Section 482CrPC are well defined. In V. Ravi Kumar v. State [V. Ravi Kumar v. State, (2019) 14 SCC 568 : (2020) 1 SCC (Cri) 401] , this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In Neeharika Infrastructure (P) Ltd. v. State of Maharashtra [Neeharika Infrastructure (P) Ltd. v. State of

¹⁹ MANU/SCOR/25792/2021

²⁰ (2023) 16 SCC 666



Maharashtra, (2021) 19 SCC 401] , a three Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482CrPC. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in R.P. Kapur v. State of Punjab [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , the court would have jurisdiction to quash the FIR/complaint.

21. When quashing is sought at the stage of cognizance, this Court has to exercise great care that it does not weigh the strengths and weaknesses of the prosecution case. Cognizance is taken of the offence and not the offender. What needs to be *prima facie* seen, is whether from the material in the chargesheet and statement of witnesses, a cognizable offence was made out and cognizance could be taken on that evidence. When the chargesheet or FIR does not disclose any cognizable offence, then this Court may exercise its inherent powers. Reference may be made to the decision in State of Bihar v. Rajendra Agrawalla²¹, wherein it has been held as under:-

5. It has been held by this Court in several cases that the inherent power of the court under Section 482 of the Code of Criminal Procedure should be very sparingly and cautiously used only when the court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the court, if such power is not exercised. So far as the order of cognizance by a Magistrate is concerned, the inherent power can be exercised when the allegations in the first information report or the complaint together with the other materials collected during investigation taken at their face value, do not constitute the offence alleged. At that stage it is not open for the court either to sift the evidence or appreciate the evidence and come to the conclusion that no prima facie case is made out. In a recent judgment of this Court to which one of

²¹ (1996) 8 SCC 164



us (Hon. K. Ramaswamy, J.) was a member it has been held, following the earlier decision in *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059 : JT (1995) 7 SC 299] :

“It is thus settled law that the exercise of inherent power of the High Court is an exceptional one. Great care should be taken by the High Court before embarking to scrutinise the FIR/charge-sheet/complaint. In deciding whether the case is rarest of rare cases to scuttle the prosecution in its inception, it first has to get into the grip of the matter whether the allegations constitute the offence. It must be remembered that FIR is only an initiation to move the machinery and to investigate into cognizable offence. After the investigation is concluded and the charge-sheet is laid the prosecution produces the statements of the witnesses recorded under Section 161 of the Code in support of the charge-sheet. At that stage it is not the function of the court to weigh the pros and cons of the prosecution case or to consider necessity of strict compliance of the provisions which are considered mandatory and its effect of non-compliance. It would be done after the trial is concluded. The court has to prima facie consider from the averments in the charge-sheet and the statements of witnesses on the record in support thereof whether court could take cognizance of the offence, on that evidence and proceed further with the trial. If it reaches a conclusion that no cognizable offence is made out no further act could be done except to quash the charge-sheet. But only in exceptional cases, i.e., in rarest of rare cases of mala fide initiation of the proceedings to wreak private vengeance, issue of process under Criminal Procedure Code is availed of. A reading of a complaint or FIR itself does not disclose at all any cognizable offence — the court may embark upon the consideration thereof and exercise the power.

When the remedy under Section 482 is available, the High Court would be loath and circumspect to exercise its extraordinary power under Article 226 since efficacious remedy under Section 482 of the Code is available. When the court exercises its inherent power under Section 482 the prime consideration should only be whether the exercise of the power would advance the cause of justice or it would be an abuse of the process of the court. When the investigation officer spends considerable time to collect the evidence and places the charge-sheet before the court, further action should not be short-circuited by resorting to exercise of inherent power to quash the charge-sheet. The social stability and order requires to be regulated by proceeding against the offender as it is an offence against the society as a whole. This cardinal principle should always be kept in mind before embarking upon exercising inherent power.”

22. The scope of enquiry by the Court at the time of taking cognizance is more limited as compared to the stage of framing of charge. At the stage of



cognizance, it is to be seen where there is sufficient ground for proceeding, whereas at the stage of charge, it is to be seen whether there is ground for presuming that the accused has committed an offence. When taking cognizance on basis of police report, the advantage of chargesheet, witness statements, and other evidence is available and the magistrate is not even required to record reasons for issuing the process. Reference is made to the decision in State of Gujarat v. Afroz Mohammed Hasanfatta²², wherein it was held as under:-

“22. In summoning the accused, it is not necessary for the Magistrate to examine the merits and demerits of the case and whether the materials collected is adequate for supporting the conviction. The court is not required to evaluate the evidence and its merits. The standard to be adopted for summoning the accused under Section 204 CrPC is not the same at the time of framing the charge. For issuance of summons under Section 204 CrPC, the expression used is “there is sufficient ground for proceeding...”; whereas for framing the charges, the expression used in Sections 240 and 246 IPC is “there is ground for presuming that the accused has committed an offence...”. At the stage of taking cognizance of the offence based upon a police report and for issuance of summons under Section 204 CrPC, detailed enquiry regarding the merits and demerits of the case is not required. The fact that after investigation of the case, the police has filed charge-sheet along with the materials thereon may be considered as sufficient ground for proceeding for issuance of summons under Section 204 CrPC.

23. Insofar as taking cognizance based on the police report is concerned, the Magistrate has the advantage of the charge-sheet, statement of witnesses and other evidence collected by the police during the investigation. Investigating officer/SHO collects the necessary evidence during the investigation conducted in compliance with the provisions of

²² (2019) 20 SCC 539



the Criminal Procedure Code and in accordance with the rules of investigation. Evidence and materials so collected are sifted at the level of the investigating officer and thereafter, charge-sheet was filed. In appropriate cases, opinion of the Public Prosecutor is also obtained before filing the charge-sheet. The court thus has the advantage of the police report along with the materials placed before it by the police. Under Section 190(1)(b) CrPC, where the Magistrate has taken cognizance of an offence upon a police report and the Magistrate is satisfied that there is sufficient ground for proceeding, the Magistrate directs issuance of process. In case of taking cognizance of an offence based upon the police report, the Magistrate is not required to record reasons for issuing the process. In cases instituted on a police report, the Magistrate is only required to pass an order issuing summons to the accused. Such an order of issuing summons to the accused is based upon subject to satisfaction of the Magistrate considering the police report and other documents and satisfying himself that there is sufficient ground for proceeding against the accused. In a case based upon the police report, at the stage of issuing the summons to the accused, the Magistrate is not required to record any reason. In case, if the charge-sheet is barred by law or where there is lack of jurisdiction or when the charge-sheet is rejected or not taken on file, then the Magistrate is required to record his reasons for rejection of the charge-sheet and for not taking it on file.”

23. The Supreme Court, in Nupur Talwar v. CBI²³, held that at the stage of cognizance, court has to only see whether there are *prima facie* reasons for issuing process and ingredients of offence are on record. The order taking cognizance should sparingly be interfered with, by the Superior Courts, which should exercise restraint, unless the order is perverse or based on no material. Otherwise, the trial is at the risk of being stalled. Relevant extracts are reproduced hereunder:-

17. The taking of cognizance means the point in time when a court or a Magistrate takes judicial notice of an offence with a view to initiating

²³ (2012) 2 SCC 188



proceedings in respect of such offence which appears to have been committed. At the stage of taking of cognizance of offence, the court has only to see whether prima facie there are reasons for issuing the process and whether the ingredients of the offence are there on record.

xxx

19. The correctness of the order whereby cognizance of the offence has been taken by the Magistrate, unless it is perverse or based on no material, should be sparingly interfered with. In the instant case, anyone reading the order of the Magistrate taking cognizance, will come to the conclusion that there has been due application of mind by the Magistrate and it is a well-reasoned order. The order of the High Court passed on a criminal revision under Sections 397 and 401 of the Code (not under Section 482) at the instance of Dr. Mrs Nupur Talwar would also show that there has been a proper application of mind and a detailed speaking order has been passed.

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21. We feel constrained to observe that at this stage, this Court should exercise utmost restraint and caution before interfering with an order of taking cognizance by the Magistrate, otherwise the holding of a trial will be stalled. The superior courts should maintain this restraint to uphold the rule of law and sustain the faith of the common man in the administration of justice.

22. Reference in this connection may be made to a three-Judge Bench decision of this Court in India Carat (P) Ltd. v. State of Karnataka [(1989) 2 SCC 132 : 1989 SCC (Cri) 306] . Explaining the relevant principles in para 16, Natarajan, J. speaking for the unanimous three-Judge Bench, explained the position so succinctly that we would rather quote the observation as under: (SCC pp. 139-40)

“16. The position is, therefore, now well settled that upon receipt of a police report under Section 173(2) a Magistrate is entitled to take cognizance of an offence under Section 190(1)(b) of the Code even if the police report is to the effect that no case is made out against the accused. The Magistrate can take into account the statements of the witnesses examined by the police during the investigation and take



cognizance of the offence complained of and order the issue of process to the accused. Section 190(1)(b) does not lay down that a Magistrate can take cognizance of an offence only if the investigating officer gives an opinion that the investigation has made out a case against the accused. The Magistrate can ignore the conclusion arrived at by the investigating officer and independently apply his mind to the facts emerging from the investigation and take cognizance of the case, if he thinks fit, in exercise of his powers under Section 190(1)(b) and direct the issue of process to the accused.”

These well-settled principles still hold good. Considering these propositions of law, we are of the view that we should not interfere with the concurrent order of the Magistrate which is affirmed by the High Court.

24. In the present case, the FIR has attributed the role of abusing, threatening to get the house of the complainant vacated, getting put one of their cars to block the way to complainant's house to appellant/S.K. Singh. Manju has been attributed the role of throwing a lock at Shivani, hitting the complainant on the head with a bat and threatening to kill her. The additional complaint dated 21.07.2021, statement under Section 164 CrPC, supplementary statement contain allegations of using casteist words against all the three appellants and S.K. Singh has also been attributed the role of handing over the bat to Manju who used it. Though appellant/Sandeep is not mentioned by name initially, allegations qua him have surfaced in the statement under Section 164 CrPC. Several other incidents have also been mentioned. There is CCTV Footage and videos of the incidents recorded on mobile phones. It is also important to keep in mind that a cross FIR No. 352/2021 has also been registered regarding the same incident.



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25. The trial court would consider as to what offences, if at all, can be attributed to which appellant at the stage of framing charge. Similarly, whether there are any improvements or contradictions in the various statements and their impact on the prosecution case, veracity of the video footage and weightage which can be attributed to different evidences also has to be properly assessed by the Trial Court at the appropriate stage and this Court will not comment on these aspects, lest they influence the further proceedings.

26. This Court has come to the conclusion that there is no infirmity in the order taking cognizance and no grounds for quashing the FIR are made out.

27. As a necessary sequitur, the appeals are dismissed along with pending applications.

28. Needless to state, it would be open to the parties to advance all submissions before the Trial Court at the stage of framing of charge, and the Trial Court shall consider them on their own merits in accordance with law, uninfluenced by any observations made herein.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 20, 2025/ry