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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 759/2022**
SMT. ANJU AND ORS.Petitioners

Through: None.

versus

THE STATE (GNCTD) AND ORS.Respondents
Through: Mr. Anand V. Khatri, ASC (Criminal)
for State.
SI Jatin Kaushik, P.S. Raj Park.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **09.01.2025**

1. There is no appearance on behalf of the Petitioners. Nonetheless, with the assistance of Mr. Anand V. Khatri, ASC (Criminal) for State, the Court has examined the record.
2. The present writ petition under Article 226 of the Constitution of India r/w Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing of FIR No. 747/2021, registered at P.S. Raj Park under Sections 323/342/354/452/382/34 of the IPC.
3. The aforementioned FIR was registered pursuant to orders issued by the Metropolitan Magistrate under Section 156(3) of the CrPC. The complainant, Mrs. Kiran, has alleged in the FIR that her husband, Respondent No. 6, was the tenant of Shop No. 1, located at Premises No. 54,

¹ 'CrPC'



Friends Enclave, Sultanpuri, Delhi, where both the Complainant and Respondent No. 6 operated a tailor shop. The owner of the premises, late Sh. Mahender Kumar, is the father-in-law of Petitioner No. 1. It is further alleged that an agreement for the sale and purchase of the said shop was executed between Respondent No. 6 and late Sh. Mahender Kumar, for a total consideration of INR 10,00,000/-, of which INR 7,00,000/- was paid by Respondent No. 6, and INR 3,00,000/- was due to be paid. However, following the death of Sh. Mahender Kumar on 14th October 2020, a dispute arose with respect to the said property, leading to the filing of a civil suit, which is currently pending before Civil Court, Rohini.

4. On 18th November, 2020, at approximately 11:30 AM, the Petitioners, accompanied by the brothers of Petitioner No. 1, one Kalpana, Hitesh, and two other unknown persons, arrived at the premises of the shop and started assaulting the Complainant and her husband. The two unknown persons, with muffled face, were armed with firearms. The Petitioners allegedly threw out items such as the LCD TV, out of the shop while also taking valuable possessions, including cash, from the shop's safe. It is further alleged that the Petitioners attacked the Complainant between her legs, despite being aware of her pregnancy and the fact that she was due to deliver a baby.

5. On the basis of the aforementioned allegations and subsequent investigation, chargesheet has been filed, and the trial court has taken cognizance of the case, and issued summons to the accused persons. The matter is currently at the stage of arguments on the point of charge.

6. It is observed that the contentions raised by the Petitioners in the petition are essentially in the nature of their defences. For instance, the



Petitioners have claimed that the Complainant was not present at the scene on the day of the incident. Instead, Respondent No. 6 was present, and allegedly attacked Petitioner No. 1, leading to the registration of FIR No. 850/2020 under Sections 323/354-B at PS Raj Park, Delhi, against Respondent No. 6. The Petitioners have contended that it was only in retaliation to the said FIR that Respondent Nos. 5 and 6 registered the impugned FIR. The Petitioners have further asserted that they are the actual victims in the present case and have been falsely implicated.

7. The Court has considered the submissions of the Petitioners. Before delving into the analysis of the case. At the outset, it is pertinent to note that the inherent jurisdiction of this Court under Section 482 of the CrPC ought to be exercised sparingly, and with abundant caution. In this regard, the Supreme Court, in **Indian Oil Corporation v. NEPC India Limited and Others**,² has discussed the scope of jurisdiction under Section 482 of the CrPC to quash criminal proceedings, and made the following observations:

“12. The principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few— Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] , State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , Central Bureau of Investigation v. Duncans Agro Industries Ltd. [(1996) 5 SCC 591 : 1996 SCC (Cri) 1045] , State of Bihar v. Rajendra Agrawalla [(1996) 8 SCC 164 : 1996 SCC (Cri) 628] , Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] , Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] , Hridaya Ranjan Prasad Verma v. State of Bihar [(2000) 4 SCC 168 : 2000 SCC (Cri) 786] , M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] . The principles, relevant to our purpose

² (2006) 6 SCC 736.



are:

(i) *A complaint can be quashed where the allegations made in 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 the case alleged against the accused.*

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) *A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.*

(iii) *The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.*

(iv) *The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.”*

(emphasis supplied)

8. Furthermore, the Supreme Court, in ***Rathish Babu Unnikrishnan v. State (NCT of Delhi)***,³, referencing several judgments, has delineated the criteria for the exercise of inherent jurisdiction to quash criminal proceedings at a preliminary stage:

*“14. The parameters for invoking the inherent jurisdiction of the Court to quash the criminal proceedings under S.482 CrPC, have been spelled out by Justice S. Ratnavel Pandian for the two judges' bench in **State of Haryana v. Bhajan Lal** [1992 Supp (1) SCC 335 : AIR 1992 SC 604], and the suggested precautionary principles serve as good law even today, for invocation of power under Section 482 of the Cr.P.C.*

‘103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the

³ 2022 SCC OnLine SC 513.



reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.'

15. In the impugned judgment, the learned Judge had rightly relied upon the opinion of Justice J.S. Khehar for a Division Bench in **Rajiv Thapar** (supra), which succinctly express the following relevant parameters to be considered by the quashing Court, at the stage of issuing process, committal, or framing of charges,

'28. The High Court, in exercise of its jurisdiction under Section 482 CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same.'

16. The proposition of law as set out above makes it abundantly clear that the Court should be slow to grant the relief of quashing a complaint at a pre-trial stage, when the factual controversy is in the realm of possibility particularly because of the legal presumption, as in this matter. **What is also of note is that the factual defence without having to adduce any evidence need to be of an unimpeachable quality, so as to altogether disprove the allegations made in the complaint.**

17. **The consequences of scuttling the criminal process at a pretrial 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."**

(emphasis supplied)

9. Therefore, having regard to the precedents noted above, the grounds



and contentions raised by the Petitioners for quashing the FIR are essentially in the nature of defences, or denial of allegations made in the FIR. These do not provide a sufficient basis for this Court to quash the FIR.

10. *Prima facie*, the allegations outlined in the FIR, taken at their face value, disclose the commission of a cognizable offence. The same do not seem so remote or improbable to merit the exercise of the discretionary jurisdiction of this Court under Section 482 of the CrPC. Therefore, the Court is not inclined to entertain the present petition.

11. It is clarified that nothing mentioned herein should be construed as an expression of the Court's opinion on the merits of the case. The Petitioners shall be at liberty to raise all the grounds urged in the present petition before the trial court at the stage of framing charges.

12. Accordingly, the petition is dismissed.

SANJEEV NARULA, J

JANUARY 9, 2025

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