



2025:DHC:1762



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

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Date of decision: 5th March, 2025

+ **CRL.M.C. 2070/2021, CRL.M.A. 13935/2021 (stay), CRL.M.A. 21257/2023 (for direction), CRL.M.A. 29069/2024 (Exemption) & CRL.M.A. 29068/2024 (for direction)**

GREESH VERMA JAIRATH

S/o Shri S.K.Verma

R/o House No. A-903, Galaxy Orchid

Seegehalli,

Bangalore, Karnataka

.....Petitioner

Through: Mr. Vishal Gosain & Ms. Anushka Baruah,
Advs along with petitioner in person.

versus

1. THE STATE NCT OF DELHI

Through Standing Counsel Criminal

.....Respondent No.1.

2. Ms. PrakshilaJairath

D/o Subhash Verma

R/o B-75/2, East of Kailash

New Delhi.

.....Respondent No.2.

Through: Mr. Shoaib Haider, APP for the State.
Mr. Manu Sharma, Sr. Adv. with Mr. Kartik
Khanna, Ms. Mahima Wahi, and Mr. Arjun
Kakkar, Advs.

+ **CRL.M.C. 2873/2021, CRL.M.A. 18085/2021 (stay) & CRL.M.A. 29079/2024 (for direction)**

SUSHIL KUMAR VERMA

s/o. Late Ved Pal Varma

r/o. H.No.B-75/2, First Floor

East of Kailash, New Delhi

.....Petitioner

Signature Not Verified

Digitally Signed
By: VIKAS AKORA
Signing Date: 19.03.2025
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CRL.M.C. 2070/2021 & 2873/2021

Page 1 of 22



2025:DHC:1762



Through: Mr. Vishal Gosain & Ms. Anushka Baruah,
Advs along with petitioner in person.

versus

1. THE STATERespondent No.1.

2. PrakshilaJairath
D/o. Late Sh. Subhash Varma
r/o. H.No.B-75/2, First Floor
East of Kailash, New DelhiRespondent No.2.

Through: Mr. Shoaib Haider, APP for the State.
Mr. Manu Sharma, Sr. Adv. with Mr. Kartik
Khanna, Ms. Mahima Wahi, and Mr. Arjun
Kakkar, Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The aforesaid two Petitions shall be disposed of by this common Order as they raise the similar question of law.
2. **Crl.M.C.2070/2021** under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C"*) has been filed by the Petitioner/Greesh Verma Jairath for quashing of FIR No.513/2018 dated 24.11.2018 registered on the Complaint of his cousin, 'Ms. P' and the Chargesheet dated 03.08.2019 under Sections 354/506/509 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) filed therein.
3. **Crl.M.C.2873/2021** under Section 482 of Cr.P.C has been filed by Sh. Sushil Kumar Verma for quashing of FIR No.446/2020 dated 05.11.2020 registered under Section 509 of IPC, P.S. Amar Colony and the



2025:DHC:1762



Chargesheet emanating therefrom, filed on the Complaint of Ms. P, his niece.

4. ***Briefly stated***, the Petitioners in both the FIRs are Uncle and his Son against whom the respective FIRs have been registered on the Complaint of Ms. P who is the niece/cousin sister of the Petitioners.

5. It is submitted that the Complainant and the Petitioners are a part of the same family and there were cordial relations between them. Ms. P used to tie rakhi to Greesh Verma Jairath. Sh. Sushil Kumar Verma is the 74 year old Uncle of Ms. P, who retired as General Manager from a leading FMCG Company in 2002. His wife is M.A B.Ed. and both the Petitioner and his wife are suffering from old age ailments like arthritis, heart problem etc. Their elder son is head of Research and settled in China; while the younger son, Greesh Verma Jairath (accused) in FIR No.513/2018 is heading the I.T Division in one of the leading Indian Company, is happily married and settled with his wife and daughter in Bangalore, where he is residing in his own house.

6. It is further stated that Sh. Sushil Kumar Verma was the absolute owner of residential property consisting of First floor, Second Floor with terrace situated at B 75/2, DDA Flats, East of Kailash, New Delhi, constructed on plot admeasuring 150 square yards. The property was originally assigned to father of Sh. Sushil Kumar Verma and it subsequently devolved on his wife, Smt. Bimla Devi (*mother of Sushil Kumar Verma and grandmother of Greesh Verma Jairath*).

7. Sh. Sushil Kumar Verma along with his wife and the mother, was



2025:DHC:1762



residing on the First floor of the property, while the Complainant and her mother were residing on the Second floor of the property in question.

8. On 23.01.2017, Sh. Sushil Kumar Verma suffered a heart attack. He along with his mother, aged 94 years, shifted to Bangalore to the house of younger son, Greesh Verma Jairath for better treatment. Taking advantage of the First floor premises lying locked, the Complainant and her mother broke open the locks of the balcony and started using the First floor for illegal construction/carpentry work in order to install an illegal structure on the second floor and terrace of the property.

9. On 04.11.2017, while Greesh Verma Jairath along with his wife on their way back from Manali, went to their premises to collect warm clothes for the father and the grandmother, and found the locks of the balcony broken open. He informed his father and the grandmother, who made a Complaint on 11.11.2017 at P.S. Amar Colony on which FIR No.585/2017 under Section 448/34 of IPC was registered on 21.12.2017 against Ms. P and her mother, which is pending trial before the learned M.M. Mr. Greesh Verma Jairath, the Petitioner is the primary witness in the said FIR.

10. The grandmother during her lifetime, also filed a Complaint dated 10.01.2018 from Bangalore to Deputy Commissioner Southeast Zone under *Section 22(1)(2) and 23(1) of Maintenance and Welfare of Parents and Senior Citizen Act, 2007* against the mother of the Complainant (daughter-in-law) detailing the atrocities committed for the last 40 years on her and also about carrying out unauthorized construction against her wishes on the Second floor. The grandmother as well as the mother of the Complainant,



2025:DHC:1762



were directed to create no further hurdles in the subject property *vide* Order dated 13.08.2018 and further directions were issued to DCP, South East District to ensure compliance of the Order. Appeal was preferred before the Divisional Commissioner, Civil Lines, Delhi but it got abated since the grandmother died on 13.11.2018, during the pendency of the Appeal.

11. The Petitioners have asserted that the Complainant and her mother, despite being the illegal occupants have raised unauthorised construction in the year 2014 and again in the year 2017-18. The unauthorised construction got booked by SDMC on 20.09.2018 under Section 343 of DMC Act and directions were issued for demolition of the booked structure. It is further submitted that the Complainant and her mother have an eye on the property of the grandmother and have maliciously implicated the two Petitioners in the false criminal complaints with the sole intention of causing harassment and mental agony.

12. On 20.11.2018, the Complainant had made a Complaint against Greesh Verma Jairath that he was allegedly recording her video from the window of his drawing room when she was coming down to the ground floor from the stairs. Same video recording has been filed along with the Chargesheet without checking the phone of the Complainant, which has not been seized by the police during investigations for establishing its authenticity from FSL.

13. The perusal of the video shows that the Petitioner/Greesh Verma Jairath is not even visible in the video taking photographs or making any video. There are material changes made in the Complaint made to the PCR



2025:DHC:1762



and that to the Police when they came from Amar Colony Police Station. It is claimed that the allegations made against Sh. Greesh Verma Jairath, on their face are false as no person can make a video of someone standing on the First floor.

14. Furthermore, the eye witness Ms. Anchal Khullar has been introduced subsequently merely to establish the corroboration. In fact on 20.11.2018, it was the Complainant who had physically assaulted Greesh Verma Jairath, while he and his father were showing to the police the CCTV footage of the incident. The Petitioner/Greesh Verma Jairath made a Complaint to the police on the same day and the NCR Report was also made against the Complainant by Sh. Greesh Verma Jairath, on which a case was eventually registered under Section 323 of IPC. The photographs of the house and the video CD has also been annexed.

15. It is submitted that on 22.11.2018, on the 10th day of demise of the grandmother, the family had gone to perform the last rituals to Haridwar and Kankhal. The Complainant got a *kalandara* prepared under Section 107/150 of Cr.P.C on the basis of Complaint dated 21.11.2018. The bare perusal of the Order shows that there was some quarrel over the property and some petty matter. Order dated 08.02.2019 of SEM, South East, Delhi clearly establishes that there was no ground to proceed on the complaint of the Complainant and dropped the proceedings against Greesh Verma Jairath and his father, Sh. Sushil Kumar Verma.

16. It is asserted that as a part of pre-planned conspiracy, the Complainant registered an FIR against the Petitioner, Greesh Verma Jairath on



2025:DHC:1762



24.11.2018 at P.S. Amar Colony, where the statements made on 20.11.2018 and the Complaint made on 22.11.2018 were different. It is claimed that this FIR is merely a counter blast to the trespass case already pending against the Complainant and her mother, in the Saket Court. In fact, there are more than 10 cases including Civil and Criminal pending between the parties. The Complaint is frivolous, false and a pressure tactic so that the family of the Petitioner submits to the illegal demands of the Complainant and her family who are in illegal possession of the second floor of the property in question.

17. It is claimed that there are several contradictions in her Complaint dated 22.11.2018 and her statement recorded under Section 164 of Cr.P.C. on 26.11.2018 and her supplementary statement recorded under Section 161 of Cr.P.C. It is claimed that no CCTV footage has been included in the Chargesheet even though there were CCTV cameras installed in the colony by the Government. It is asserted that the two Petitioners are running from pillar to post to make several complaints to the higher authorities but to no avail.

18. It is further asserted by the Petitioners that the subsequent FIR No.446/2020 dated 05.11.2020 under Section 509 of IPC has been registered on flimsy and false grounds against the Petitioner/Sushil Kumar Verma.

19. ***Crl.M.C.4656/2019*** titled *Pratibha Devi Verma and Anr vs. State of NCT of Delhi* was preferred, but the same has been dismissed on 29.01.2020.

20. The father of the Petitioner, Sh. Sushil Kumar Verma has also made several complaints but no heed has been paid to any of the complaints.



Despite an assurance, the IO has failed to file any supplementary Chargesheet. It is claimed that the present Petition is highly motivated and the entire incident is on the face of it improbable. Moreover, the Chargesheet suffers from material contradictions disproving the charges levelled in the Chargesheet.

21. Reliance has been placed on Madhavrao Jiwaji Rao Scindia and ors vs. Sambhajirao Chandrojirao Angre and Ors, 1988 Cri.L.J.853 to submit that it is for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Reliance has also been placed on State of Haryana and Ors. vs. Ch. Bhajan Lal and Ors., AIR1992 SC 604.

22. It is, therefore, submitted that both the FIRs be quashed.

23. ***Learned counsel on behalf of the Respondent No.2/Complainant*** in the detailed Reply has taken preliminary objections that the Petitioners are trying to mislead the Court by making vague averments instead of citing true and correct facts. Respondent No.2/Complainant is an educated, peace loving and law abiding citizen and is pursuing Bachelor of Maths (Hons.) from Delhi University and is aged about 47 years. She is involved in various social causes such as adopting poor patients admitted in AIIMS and imparting education to children of poor strata. She earns her income from daily tuition and enjoys an excellent reputation in her profession. She resides with her mother, who is aged 77 years, on the Second floor of the property in question.



2025:DHC:1762



24. Sh. Subhash Verma, father of Respondent No.2 was a well respected citizen, a freelance journalist and an RTI Activist who devoted his retired life in social causes. Smt. Bimla Devi Verma, grandmother of the Complainant, became the owner of the property in question by virtue of the Relinquishment Deed signed by all her children in her favour, in the year 1984. Sh. Subhash Verma, father of the Complainant also executed a Relinquishment Deed in favour of the mother. However, there was an understanding that Late Sh. Subhash Verma along with his family, would continue to stay on the Second floor of the property in question where the mother of the Complainant has been residing for the last 45 years, whereas the First floor of the property is in possession of Sh. Sushil Kumar Verma, father of the Petitioner.

25. The entire family of two brothers and their mother had been living as one unit in the property till the demise of the grandmother. Thereafter, both the Petitioners, who are father and son started mistreating the Respondents who are residing on the Second floor of the property in question. The two Civil Suits bearing No.CS DJ/242/2019 and CS DJ/416/2019 got filed *inter se* the parties.

26. It is further asserted that Sh. Sushil Kumar Verma, Chacha of the Complainant, in an endeavour to throw out Respondent No.2 along with her mother and to grab the entire property, started their constant harassment and humiliation. Sh. Sushil Kumar Verma has been extending threats to Respondent No.2 and her mother and has been abusing them publicly, causing humiliation only with the intention to make their lives miserable.



2025:DHC:1762



27. He has removed the Letters and Bills of Respondent No.2. He has tried to illegally confine the mother of the Complainant for which police intervention had to be sought to get the main door of the house opened. Various frivolous complaints have been made. The CCTV camera and Wi-Fi installed by the Complainant for the security of her mother, had also been disconnected. Various derogatory remarks are made against them in the presence of neighbours. Furthermore, entry of plumbers, electricians, kabadiwala, domestic helps or drivers of Respondent No.2 has been restricted in the property in question for which again the intervention of the police has been sought.

28. False and frivolous criminal cases have been filed against the Complainant. It is asserted that for last five years, she and her mother have been subjected to constant intimidation and threat by the two Petitioners.

29. It is further asserted that all limits of decency were crossed when her privacy was violated time and again by clicking her pictures and taking videos at night, while she was leaving the house. One such incident occurred on 20.11.2018, where the Petitioner/ Greesh Verma Jairath, without the consent of Respondent No.2, recorded her video.

30. The Complainant feeling unsafe and threatened, made a police Complaint. It is further asserted that Respondent No.2 is in constant fear of entering the staircase of her own house. To ensure her safety, she installed CCTV Cameras which have been illegally disconnected by the Petitioners.

31. Due to lack of support by the police, Petitioners got encouraged to intensify his action which led to her assault and molestation by hurling



2025:DHC:1762



abuses and touching her inappropriately. Likewise, on 22.11.2018 while she was going upstairs after walking her dog in the night, Greesh Verma Jairath stopped her midway and hurled abuses on her. He pushed her to the edge of the wall and kept his hands on her chest to threaten her to leave the house. This incident was reported to the Police on which FIR No.513/2018 under Section 354/509 of IPC has been registered against Greesh Verma Jairath.

32. The Chargesheet have been allegedly filed against the two Petitioners, in respective FIRs and there is no ground for quashing of the FIRs and the Chargesheet. The Court perused the two FIRs under Section 354/354D/506 and S. 509 IPC, respectively and the Statement of the Complainant and held that there were specific allegations against the accused person about the incident. It was held that the case is *not covered* by the decisions of the Apex Court, which govern quashing of FIRs, since the case is not one, where the allegations made in the FIR, even if taken at a face value, do not constitute any offence or where the allegations are inherently improbable.

33. Reliance has been placed on Vidyadharan vs. State of Kerala, (2004) 1 SCC 215 wherein it has been observed that in order to constitute an offence under Section 354 of IPC, mere knowledge that the modesty of a woman is likely to be outraged, is sufficient without any deliberate intention. It is submitted that the Petitions are without merit and are liable to be rejected.

34. The Respondent No.2/Complainant has placed reliance on Dhanesh Ieshdhan vs. State (Govt. of NCT of Delhi) and Anr., 2024 SCC OnLine Del 304 wherein the Court relied on the case of Bhajan Lal (supra) and



2025:DHC:1762



Neeharika Infrastructure vs. State of Maharashtra, 2021 SCC OnLine SC 315.

35. In the case of Harshita Gandhi vs. State and Anr., 2022 SCC OnLineDel 2683 the Court observed that there were contradictions in the Complaint filed and the FIR under Sections 323/354/506/34 of IPC, but the same needed to be examined in trial. The Court cannot rush to quash an FIR when the Charge-Sheet has been filed; the only course that commends itself is that the Trial court commences the trial as per Neeharika (supra) and Kaptan Singh vs. State of Uttar Pradesh, (2021) 9 SCC 35.

36. Similar observations have been made in the case of Professor Ajay Kumar vs. State (Govt. of NCT of Delhi) and Anr., 2022 SCC OnLine Del 2804 and Abhijeet J.K. vs. State of Kerala Represented by its Public Prosecutor and Ors., 2020 SCC OnLine Del 703..

37. **Submissions heard and record perused.**

38. Before considering the rival contentions made in the present Petition, it would be pertinent to first outline the ambit and scope of Section 482 of Cr.P.C.

39. A three Judge Bench of the Apex Court in the case of State of Karnataka vs. L. Muniswamy, 1977 SCC (Cri) 404 had observed that this power to quash a proceeding is a wholesome power which must be exercised only if the High Court comes to the conclusion that allowing the proceedings to continue would be an abuse of the process of the Court or that the ends of justice require the proceedings to be quashed. The inherent power of the High Court, both in civil and criminal matters, is designed to



2025:DHC:1762



achieve a salutary public purpose which is that a Court proceeding ought not to be permitted to be degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceedings in the interest of justice which are much higher than the ends of mere law though justice, has got to be administered according to the laws made by the Legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provisions which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.

40. The three Judge Bench of the Apex Court in the case of State of Karnataka vs. M. Devendrappa, (2002) 3 SCC 89 similarly observed that all Courts whether civil or criminal, possess even in the absence of any express provision, an inherent power necessary to do the right and to undo a wrong in the course of administration of justice on the principle *quando lex aliquid aliqui concedit, concedere videtur et id sine quo res ipsa, esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the Section, the Court does not function as a Court of Appeal or Revision. The inherent jurisdiction is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which the Courts exist. Any attempt made to abuse that authority so as to produce injustice must be prevented by use of this inherent



2025:DHC:1762



power. It would be an abuse of process of the Court to allow any action which would result in injustice and prevent promotion of justice. When a Complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

41. In the case of Mahmood Ali and Ors vs. State of Uttar Pradesh and Ors, (2023) 15 SCC 488 it was observed that when a party approaches this Court either for invoking inherent powers under Section 482 of the Code of Criminal Procedure or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive or for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. It was further observed that once a Complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, then he would ensure that the FIR/Complaint is very well drafted with all the necessary pleadings. The Complainant would ensure that the averments made in the FIR/Complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/Complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence, are disclosed or not. In frivolous and vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case,



2025:DHC:1762



over and above the averments made in the Complaint and if need be, due care and circumspection must be exercised to try to read in between the lines.

42. In State of A.P vs. Golconda Linga Swamy, (2004) 6 SCC 522 the two Judge bench of the Apex Court elaborated on the *types of materials* that the High Court can assess to quash an FIR. It was observed that there was a fine distinction between *consideration of materials* that was tendered as evidence and *appreciation of such evidence*. Only such material that manifestly fails to prove the accusation in the FIR, can be considered for quashing an FIR. When a Complaint is sought to be quashed, it is permissible to look into the materials to assess what the Complainant has alleged and whether any offence is made out even if the allegations are accepted *in toto*.

43. Similarly in R.P. Kapur vs. State of Punjab, AIR 1960 SC 866 it was observed that the inherent powers to quash the proceedings may be exercised in the following circumstances:-

- (i) *Where the manifestly appears that there is a legal bar against the institution or continuance example want of sanction;*
- (ii) *Where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;*
- (iii) *Where the allegations constitute an offence but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.*

44. It was further explained that while dealing with the last category, it is



important to bear in mind the distinction between a case where there is *no legal evidence* or where *there is evidence which is clearly inconsistent with the accusations made* and a case where there is legal evidence which on appreciation, may or may not support the accusations. While exercising jurisdiction under Article 482 of Cr.P.C. of the Code, 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 its accusation would not be sustained; that is the function of the Trial Court.

45. Supreme Court in the case of State of Haryana vs. Bhajan Lal, 1992 SCC (Cri) 426 while giving the categories of cases in which the power under Section 482 of Cr.P.C to quash the proceedings may be exercised, observed:-

“Where a criminal procedure is manifestly attended with malafide 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 grudges”

46. ***In the light of the aforesaid discussion, the various Complaints may be considered to assess the FIRs in question, and to determine if they disclose the commission of the offence or that they are required to be quashed being malafide and vexatious as brought out from the surrounding circumstances.***

47. There is no denial that the Complainant is the daughter of Sh. Subhash Verma, brother of Sh. Sushil Kumar Verma, and is the first cousin



2025:DHC:1762



of Greesh Verma Jairath. Further, there is no dispute that while the Complainant with her mother have been residing on the Second floor and the Petitioner, Sushil Kumar Verma had been residing on the First floor with his wife and aged mother. However, in the year 2017, he along with the mother and wife, shifted to the house of his son, Greesh who was residing in Bangalore after locking their premises.

48. Allegedly, the Complainant and her mother trespassed into the First floor and raised construction on the terrace of the Second floor, which has been booked by the MCD and directions have been issued for demolition of the booked construction. It is also not in dispute that two Civil Suits got filed in the year 2019 *inter-se* the parties.

49. The **FIR No.585/2017** got registered against the Complainant by the grandmother, Ms. Bimla Devi on 22.12.2017 under **Section 448 of IPC for house trespass**. There are multiple litigations between them on account of the property dispute.

50. The Petitioner, Sushil Kumar Verma had filed **FIR No.485/2018 under Section 379 of IPC** against the Complainant on the allegations of theft of Inverter battery. The Petitioner/Greesh Verma Jairath also filed Complaints under Section 200 of Cr.P.C. along with an Application under Section 156(3) of Cr.P.C against the Complainant in the year 2018.

51. Another **FIR No.374/2019** dated 23.11.2019 under **Section 289/506 of IPC** also was registered on the complaint of Sh. Sushil Kumar Verma on the allegations of him being attacked by the dogs upon the instigation of the Complainant.



2025:DHC:1762



52. It is, therefore, evident that there is an *inter-se* dispute between the Complainant and her family and the Petitioners on account of the property, which has manifested itself in criminal as well as civil litigations.

53. *In this backdrop, the two FIRs in question i.e. FIR No.513/2018 (against Greesh Verma Jairath) and FIR No.446/2020 (against Sushil Kumar Verma) need to be assessed.*

54. The **first FIR No.513/2018 dated 22.11.2018** has been registered against Petitioner/Greesh Verma Jairath, the cousin of the Complainant, on the allegations that while he was visiting the suit property on his return from Manali for collecting woollen clothes for the grandmother and the father, he allegedly prepared a video of the Complainant without her permission and thereafter, pushed her against the wall and touched her chest inappropriately.

55. The **second FIR No.446/2020 dated 05.11.2020** has been registered against Petitioner/Sh. Sushil Kumar Verma, the uncle of the Complainant, on the allegations that at around 11:50 a.m. while she along with her mother were going in the car to Amar Colony, Sh. Sushil Kumar Verma tried to overtake her car from the left side just before the red light of Garhi on Captain Gaud Marg. When she looked at him, he showed his middle finger to the Complainant, thereby prima facie committing an offence under Section 509 of IPC.

56. It is true that there is a family dispute in regard to the Property in respect of which several Civil and Criminal litigations have been instituted *inter se* the parties since 2017, but the core question is whether the two Complaints on which the aforesaid FIRs have been registered, can be



2025:DHC:1762



considered to be malicious and vexatious intended to wreak vengeance on the Petitioners.

57. The two incidents of dated 22.11.2018 and 05.11.2020 have been registered at the gap of about two years. It is not as if the one followed the other immediately. Furthermore, as discussed above, the test is to ascertain whether the allegations made in the FIR if taken on their face value, would not *prima facie* constitute any offence or make out the case against the accused.

58. The two Complaints when read in *toto*, do disclose the *prima facie* commission of offence under which the two FIRs have been registered. Further, the allegations made in the FIR, cannot be held to be absurd or inherently improbable on the basis of which no prudent person can reach a just conclusion that there is sufficient ground for proceeding against the accused. There may have been *inter se* litigation, but that cannot be a ground to presume that the allegations made in the Complaint, are inherently improbable or absurd.

59. The Complaints also do not reflect that they have been made maliciously with an ulterior motive of wreaking vengeance.

60. As has been held in the case of M. Devendrappa, (supra), the surroundings circumstances and material be also considered to ascertain if any allegations are made if the Complaint is accepted in *toto*. *Here in the present case*, the Complaints even if assessed in the surrounding circumstances of animosity *inter se* the parties, do not lead to an inference of false implication.



2025:DHC:1762



61. In the case of Ramesh Chand Singh & Others vs. State of West Bengal and Another, 2021 SCC OnLine Cal 2549 wherein an FIR under Section 354 of IPC was registered against the Petitioners, who had earlier got an FIR registered against the Complainant, for the offence under Section 307 of IPC and read with Section 25/27 of Arms Act, 1959. *While considering the allegations in the subsequent Complaints under Section 354 of IPC, it was noted that not only that there was a delay of about 3-4 days in making the Complaint but also there were no allegations of outraging of modesty made in the Statement under Section 164 of CrPC.* In this context, it was observed that to allow such a Complaint to proceed, would be an abuse of the process of the Court and would result in injustice and prevent promotion of justice. It was concluded that the initiation of the Complaint reflected that it had been initiated as a pressure tactic for creating circumstances, which may compel the Petitioners to dilute their approach in the earlier case registered by them, had been instituted maliciously with an ulterior motive for wreaking vengeance and with the view to spite them because of private and personal grudge and consequently, the Complaint under Section 354 of IPC, was quashed.

62. However, the facts in present case are clearly distinguishable. The Complainant is a 47 years old lady, who had made the allegations against her cousin brother (son of her paternal uncle) and the paternal uncle in the two separate FIRs, with a gap of about two years. On the face of the two Complaints, it cannot be said that they were intended to wreak vengeance and the surrounding circumstances; multiple Criminal and Civil Litigation



2025:DHC:1762



also does not lead to any conclusion of the two Complaints being vexatious or intended as a pressure tactic.

63. In the case of R.P. Kapur, (supra) it was observed that while considering such Petitions, the Court must be circumspect and judicious in exercising discretion under Section 482 of CrPC and should take all relevant facts and circumstances into consideration, lest such FIR becomes an instrument in the hands of a private Complainant, to unleash vendetta or to harass any person needlessly.

64. While dealing with such cases, it is important to bear in mind the distinction between a case where *there is no legal evidence* or where there is *evidence, which is clearly inconsistent* with the accusations made. When exercising jurisdiction under Section 482 of CrPC, the Court would not ordinarily embark upon an inquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it the accusations would not be sustained; that is the function of the Trial Court. Judicial process no doubt, should not be an instrument of operation or needless harassment yet at the same time, this Section cannot be used as an instrument by the accused to short circuit a prosecution and bring about its sudden death.

65. *In the present case*, whichever way the two FIRs may be considered at this stage, there is nothing on record to suggest that the FIRs are vexatious or are based on false facts. There is no contrary legal evidence to discredit the allegations made in the Complaint. Thus, it is not a case which merits quashing of the two FIRs, but the merits are left to be tried by the learned



2025:DHC:1762



Trial Court, after recording of evidence.

66. The circumstances as discussed above, do not justify quashing of the FIR No.513/2018 dated 24.11.2018 and FIR No.446/2020 dated 05.11.2020. The Petitions are hereby dismissed and disposed of accordingly. Pending Application(s), if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 5, 2025
rk/RS