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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2068/2023 & CRL.M.A. 34302/2023, CRL.M.(BAIL) 1017/2023**

VIJAY KUMAR @ CHAMPION

.....Petitioner

Through: Mr. Rohit Krishan Naagpal,
Advocate.

versus

STATE OF NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Criminal) with Mr. Abhinav Kr.
Arya and Ms. Priyam Agarwal,
Advocates for State.
SI Ali Akram, P.S. Patel Nagar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

14.02.2025

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1. The Present writ petition under Article 226 of the Constitution of India, 1950¹ read with Section 482 of the Code of Criminal Procedure, 1973,² seeks quashing of the FIR 582/2022³ dated 19th September, 2022 under Sections 392/397/506/34 of the Indian Penal Code, 1860⁴ registered at P.S. Patel Nagar. The Petitioner also seeks a direction restraining Respondent No.1 from effecting his arrest in connection with the said FIR.

2. Briefly, the case of the prosecution is as follows:

2.1 The FIR has been registered on the complaint of one Vinay Arora

¹ "Constitution"

² "CrPC"

³ "Impugned FIR"



dated 22nd July, 2022 wherein he has alleged that on 14th July, 2022, he and his manager, Naveen Choudhary, visited the Vivo Service Centre in Patel Nagar to get his mobile phone repaired. After being informed that the repair would take approximately 30 minutes, they stepped outside in search of a nearby eatery for a sandwich. Meanwhile, the Petitioner, Vijay Kumar @ Champion, and another accused, Jujhar Singh @ Dara, arrived on scooters. The Petitioner allegedly grabbed the complainant by the collar and threatened him in order to extort money. When the complainant refused, the Petitioner pulled out a buttoned knife from his trousers and placed it on the complainant's neck. Fearing for his safety, the complainant handed over Rs. 8,000 to the Petitioner. Following this, Jujhar Singh @ Dara allegedly suggested filming an offensive video of the complainant. Based on this complaint, offenses under Section 384/506/34 of the IPC were made out, and an FIR was duly registered.

2.2. During the investigation, the complainant provided further details, alleging that the Petitioner forced him to pose in a humiliating manner and lick his own spit while the co-accused, Jujhar Singh @ Dara, recorded the incident. The video was allegedly sent to the Petitioner's elder brother, Harikishan @ Raju Mental. The two accused then threatened the Complainant, warning him that if he reported the incident to the police, they would kill his family. The Complainant also claimed that the Petitioner and co-accused Jujhar Singh @ Dara had previously extorted money from him through intimidation and threats. As a result, the charge under Section 384 of the IPC was replaced with Sections 392/397 of the IPC. Efforts to locate Jujhar Singh @ Dara and the Petitioner were made, but both were found to

⁴ "IPC"



be absconding.

2.3. Subsequently, Jujhar Singh @ Dara surrendered before the Court in connection with Case FIR No. 718/2014, registered at P.S. Delhi Gate, Aligarh. He was subsequently arrested in the present case after receiving permission from the ACMM Court at Tis Hazari on 24th March 2023. Upon further investigation, a Police Custody remand for Jujhar Singh @ Dara was obtained, and on his instance, a mobile phone, reportedly used in the commission of the crime, was recovered and seized. The phone has been sent to the FSL for examination, and the results are pending.

2.4. As the Petitioner remained absconding, proceedings under Section 82 of the CrPC were initiated against him, and he has been declared as a “Proclaimed Offender” by the ACMM, Tis Hazari Court on 5th December, 2023. Consequently, offence under Section 174A of the IPC was also added. Furthermore, the Petitioner has a history of 29 criminal cases, including those related to murder, attempt to murder, and robbery.

3. Counsel for the Petitioner contends that the Petitioner has been falsely implicated and has no involvement in the alleged offence. He submits that the FIR is a result of a malicious scheme orchestrated by the complainant in collusion with the Investigating Officer, and that the allegations are baseless and unsupported by any corroborative evidence. Despite CCTV cameras being installed at the location, no footage has been produced to support the prosecution’s case, and there are no independent eyewitnesses to the alleged incident. He further contends that the claim regarding the recording of an offensive video on the Petitioner’s mobile phone is baseless, as no independent witness has corroborated this assertion. The Petitioner is willing to submit his mobile phone for forensic examination, and the FSL report will



clarify whether any such video exists. He also argues that the prosecution's repeated emphasis on the Petitioner's prior criminal record is merely an attempt to prejudice his case. He asserts that past antecedents cannot, by themselves, be a justification to deny the relief sought, particularly when the allegations in the present case are implausible and unsupported by credible evidence

4. Counsel for the Petitioner also places reliance on Supreme Court's judgment in *State of Haryana v. Bhajan Lal*⁵ to contend that the FIR warrants quashing, as the allegations are so inherently improbable and absurd that no reasonable person could conclude there is sufficient ground to proceed against the Petitioner. He argues that the FIR does not disclose any *prima facie* case for the offences alleged by the prosecution. Furthermore, he asserts that the Complainant has deliberately concealed prior complaints and applications filed before various forums, which were amicably settled. He also points out that the FIR was registered pursuant to an application under Section 156(3) of CrPC, without any prior complaint being lodged with the police, indicating procedural impropriety. Lastly, he contends that Section 397 of IPC was added without due consideration, solely to bypass the safeguards laid down in *Arnesh Kumar & Ors. v. State of Bihar*.⁶

5. The Court has considered the aforementioned contentions, but finds no grounds to interfere. The principles governing the quashing of an FIR under Section 482 of CrPC have been well established by the Supreme Court in *State of Haryana Vs. Ch. Bhajan Lal and Ors.*,⁷ wherein the Court has laid down some of the principles under which FIR/complaints/criminal

⁵ 1992 Supp (1) SCC 335

⁶ (2014) 8 S.C.R. 128



cases could be quashed, in the following manner:

“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 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

⁷ 1992 Supp. (1) SCC 335



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.”

(emphasis added)

6. As summarized in the afore-said judgment, quashing is warranted only in cases where the allegations, even if taken at face value, do not disclose any cognizable offence, where the prosecution is manifestly attended with *mala fides*, or where the allegations are so inherently improbable that no reasonable person can accept them. In the present case, the allegations made in the FIR, do *prima facie* disclose the commission of cognizable offences. The argument of the Petitioner, that the allegations are baseless and unsupported by corroborative evidence, cannot be examined at this stage, as it pertains to factual disputes that are within the domain of trial. The threshold for quashing an FIR is not whether the prosecution has gathered conclusive proof but whether the allegations, on their own, make out a case for investigation or trial. The absence of direct eyewitnesses is not a ground for quashing, as criminal acts often take place in a concealed manner. Moreover, the complainant has reiterated his version during the investigation.

7. As regards the contention that the FIR was lodged belatedly and is therefore unreliable, it is a settled position of law that mere delay in lodging an FIR does not *ipso facto* a ground for quashing the FIR.⁸ The delay in lodging an FIR must be considered in the context of the allegations and

⁸ *Mohammad Wajid and another vs. State of U.P. and others*, AIR 2023 SC 3784



circumstances, which in the present case is not inordinate, for the Court to quash the impugned FIR.

8. The Petitioner further contends that there is no corroborative evidence such as CCTV footage or eyewitness accounts to support the complainant's version. However, as consistently held by the Supreme Court, an FIR cannot be quashed solely on the ground of lack of independent corroboration at the inception of an investigation. The absence of CCTV footage or independent witnesses does not conclusively negate the allegations, especially when the offence is alleged to have been committed in a manner that would not necessarily have external witnesses. The complainant's statement, duly recorded during the investigation, carries evidentiary value and cannot be disbelieved at this stage.

9. The argument that Section 397 of IPC was added without proper justification is also untenable. The Investigating Officer is vested with the discretion to amend charges based on the evolving facts of the investigation. If the Petitioner disputes the applicability of Section 397 of IPC, the appropriate remedy lies before the trial court at the stage of framing of charges, not in a petition for quashing the FIR.

10. Lastly, the Petitioner's reliance on **Arnesh Kumar** is misplaced. The judgment in **Arnesh Kumar** pertains to the necessity of arrest and procedural safeguards to prevent arbitrary arrests in certain categories of offences. However, it does not lay down a principle for quashing an FIR merely because a particular offence has been added during the investigation. If the Petitioner apprehends wrongful arrest, the proper course would be to seek appropriate relief in accordance with the law, rather than seeking the extraordinary remedy of quashing an FIR.



11. As regards the Petitioner's prayer for a direction restraining Respondent No. 1 from taking any coercive action against him, it must be emphasised that a writ petition under Article 226 of the Constitution, seeking quashing of an FIR, cannot serve as a substitute for availing remedies specifically provided under the Bharatiya Nagarik Suraksha Sanhita, 2023, for securing personal liberty. The Petitioner's earlier attempt to secure pre-arrest bail has already been rejected, and therefore, this plea cannot be entertained in the present proceedings.

12. In light of the foregoing, this Court finds that the allegations in the FIR, taken at face value, do disclose the commission of cognizable offences, and the contentions raised by the Petitioner do not fall within the limited grounds for quashing an FIR as laid down in *Bhajan Lal* and other precedents. Consequently, the present petition is devoid of merit and is accordingly dismissed.

13. Dismissed along with pending applications.

SANJEEV NARULA, J

FEBRUARY 14, 2025/as