



2025:DHC:729



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

% ***Pronounced on: 4th February, 2025***

+ **CRL.M.C.2589/2021 & CRL.M.A.16782/2021**

1. **SH. ANIL KUMAR**
S/o LT. SHRI GORDHAN LAL
2. **MRS. ANCHAL**
W/o SH. ANIL KUMAR
3. **MASTER MITUL KUMAR (MINOR, THROUGH FATHER)**
S/o SH. ANIL KUMAR

All resident of:

House No. 152, New Police Colony,
Near Kela Godawn, Shalimar Bagh,
Delhi-110088

....Petitioners

Through: Mr. Surender Kumar, Advocate.

Versus

1. **THE STATE (GOVT. OF NCT DELHI)**
2. **THE COMMISSIONER OF POLICE**
PHQ, JAI SINGH MARG, NEW DELHI
3. **THE DEPUTY COMMISSIONER OF POLICE**
DISTRICT-NORTH-WEST, ASHOK VIHAR
DELHI
4. **THE SHO/INSPECTOR SHER SINGH**
POLICE STATION-SHALIMAR BAGH, DELHI
5. **INSPECTOR HARJINDER KAUR**
DIU/PS MAURYA ENCLAVE
PITAM PURA, DELHI
6. **WASI/IO SANTOSH YADAV**



2025:DHC:729



CRIME AGAINST WOMEN CELL
RANI BAGH, DELHI

7. MRS. KIRAN
W/o. SHRI JAGDEV SHUKLA
TEMPLE POLICE COLONY,
SHALIMAR BAGH
DELHI-110088

8. W/PSI MOHINI NO.D-6540 PIS NO.16190397
P.S.SHALIMAR BAGH
DELHI-110088

..... Respondents

Through: Ms. Meenakshi Dahiya, APP for
State.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C"*) has been filed for quashing of FIR No.249/2021 under Sections 354A/323/506/509/34 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*), P.S. Shalimar Bagh, Delhi.
2. Petitioner No.1-Sh. Anil Kumar is a Government Servant. Petitioner No.2-Mrs. Anchal, is his wife of Petitioner No.1, and Petitioner No.3-Master Mitul Kumar, is the minor son of the Petitioner No.1.
3. It is claimed that the FIR No.249/2021 is the outcome of the previous incident, the details of which are important for understanding the genesis of this FIR. It is asserted that on 03.03.2020 Master Harshit Kumar, another son of Petitioner No.1 and Ms. Kashish Khanna, Sister-in-law of Petitioner No.1 who were preparing for Government services, were restrained,



2025:DHC:729



threatened to be killed and brutally beaten by approximately 10 persons with dandas, bricks, fist blows, kicks, iron rod, etc. and caste based derogatory remarks were passed. Her clothes were torn and was fingered in her private parts.

4. A PCR call was made and the local police came which eventually took them to BJRM Hospital, Jahangir Puri, Delhi, where eventually the MLCs were prepared. FIR No.78/2020 under Sections 323/341/354/354A/354B/34 of IPC was registered after a lapse of 6 hours of giving the Complaint. Even though there were specific allegations made, Sections 376(D)/307/308 of IPC and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*hereinafter referred to as "SC/ST Act"*) were intentionally not added by the Police since the police was in connivance with the accused persons.

5. Pertinently in respect of the same incident at the behest of accused persons, *Cross FIR No.77/2020, under Section 307/34 of IPC, P.S. Shalimar Bagh* was registered against the Petitioners in order to help the accused and to ensure that the Petitioners were not able to pursue their case.

6. Thereafter another *FIR No.81/2020 under Sections 376/354-B/354/323/506/34 of IPC, P.S. Shalimar Bagh* was registered on 05.03.2020 against them after a delay of two days only to deter them from pursuing their FIR No.78/2020.

7. The Petitioners have further asserted that in the two FIRs, the investigations are not being conducted in a fair manner since the Police officials are involved with the accused persons. It is further asserted that on 11.03.2021 Jagdev Sukla, Mohit Sukla and Rohit Sukla tried to kill Petitioner No.2 by throwing a brick on her head when she was standing in



2025:DHC:729



the balcony of her house but somehow, she was able to save herself. She made a PCR call and *FIR No.148/2021, under Section 354D/506/509 of IPC, P.S. Shalimar Bagh* has been registered against the accused persons.

8. On 27.05.2021, the Petitioners were shocked to know that one ***FIR No.249/2021, under Section-354A/506/509/323/34 of IPC, P.S. Shalimar Bagh has been registered against Petitioner Nos.1 & 2.*** It is claimed that the IO in connivance with Jagdev Sukla, Mohit Sukla, Rohit Sukla, Kiran Sukla and other family members have got them falsely implicated in this FIR. The frivolity of the FIR can be gauged from the fact that there is an unexplained delay of 35 days. Moreover, the allegations are general in nature. Furthermore, the Petitioners were not present at the scene at the time and place, as alleged in the FIR. This FIR in fact, is a counterblast to their FIR No.148/2021.

9. The quashing of this FIR is sought on the ground that it is a frivolous case based on vague assertions. It is an endeavour by the local Police to destroy crucial evidence and to create new facts, forge documents contrary to law with the intention of benefitting the accused persons in FIR No.78/2020.

10. It is prayed that this conspiracy has been hatched by the local police along with senior Police Officers, in order to create pressure on the Petitioners by the Respondents in order to escape the criminal liability. It is submitted that in the light of the previous animosity and the connivance of the Police officials, the FIR be quashed.

11. ***Learned Additional Public Prosecutor*** has submitted that there has been animosity *inter-se* the parties and various cross FIRs have been registered against either party. The present FIR is based on the specific



2025:DHC:729



allegations made by the Complainant against the Petitioners and there is no ground for quashing of the FIR.

12. Submissions heard and record perused.

13. The Apex Court in the case of Amit Kapoor vs. Ramesh Chander and Anr., (2012) 7 S.C.R. 988, had observed that though there are no limits to the powers of the Court under Section 482 of the Code, but more the power, the more due care and cautions is to be exercised in invoking these powers. The power of quashing criminal proceedings must be exercised very sparingly and with circumspections and that too in the rarest of rare cases. Such power may be exercised when it is absolutely essential to prevent patent miscarriage of justice and for correcting grave errors that might be committed by the subordinate courts and even in such cases, the High Courts should loath to interfere, at the threshold to throttle the prosecution in exercise of the inherent powers. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender. It cannot be permitted to be used for an oblique or ultimate/ulterior purpose. Where the Court finds that it would amount to abuse the process of the Code or that the interest of justice favors, otherwise it may quash the charge. It must be exercised *ex debito justitiae* i.e. to do real and substantial justice for administration of which alone, the Courts exists. Similar observations were made in Taramani Prakash vs. State of Madhya Pradesh and Ors, 2015(11) SCC 260.

14. In the light of the aforesaid principle, at the stage of quashing of the FIR what needs to be carefully scrutinized is whether the Complaint *prima facie* makes out an offence or not. At this stage there cannot be any minutest examination of the correctness of the averments made in the Complaint



2025:DHC:729



which has to be undertaken by the Police/Investigation Officer during the investigations.

15. *In the present case*, there are specific averments by the Complainant in the FIR of her being beaten and sexually assaulted on 14.03.2021, by the accused persons, thereby disclosing *prima facie* offences.

16. The basic premise on which the quashing has been sought is that there is a long drawn previous animosity between the parties and there are many cross FIRs registered against each other. The animosity apparently springs from the fact that Jagdev Sukla, Mohit Sukla, Rohit Sukla had made illegal encroachments on the public land in regard to which W.P.(C) 501/2021 was filed in this Court. In compliance with the Judgment dated 13.08.2020, the local police got the illegal and unauthorized house constructed by such persons, vacated.

17. However, there may be previous animosity and cross FIRs registered, but there are specific allegations of the incident dated 14.03.2021 made in the Complaint, the veracity of which is yet to be tested by way of investigation. The circumstances do not warrant any inference that there is an abuse of the process of the Court in registration of FIR or that it is an outcome of vindictiveness. None of the parameters as discussed above, for quashing of the FIR are made out.

18. There is no merit in the present Petition and it is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 04, 2025

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