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

+ CRL.M.C. 2250/2008 & CRL.M.A. 8357/2008, CRL.M.A.
9096/2019, CRL.M.A. 13632/2023, CRL.M.A.
14139/2024

PROF. MADHU KISHWARPetitioner

Through: Mr. Ravi Sharma, Mr.
Shivam Mishra and Ms.
Madhulika Rai Sharma,
Advocates.

versus

STATE OF N.C.T. OF DELHI & ORS.Respondents

Through: Ms. Priyanka Dalal, APP
for the State with Insp.
Chandra Prakash, PS
DIU/South Distt.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **16.10.2025**

1. The present petition is filed *inter alia* seeking quashing of FIR No. 162/2008 ('**FIR**') dated 28.06.2008, registered at Police Station KM Pur, for offences under Sections 307/323/506/34 of the Indian Penal Code, 1860 ('**IPC**'), including all consequential proceedings arising therefrom.

2. The petitioner has also challenged the order dated 30.05.2008, passed in complaint case 127/1 of 2008, whereby the learned Magistrate directed the concerned SHO to register the subject FIR.

3. Briefly stated, it is alleged that Respondent No.4/ complainant and her sons were cheated by the petitioner on the pretext of allotment of shops in Seqa Nagar Modal Market.

Allegedly, on 31.12.2007, at about 12:30 PM, the complainant
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met with the petitioner and her associates near her son's shop to request for return of the money that had been taken by the petitioner for allotment of shops. It is alleged that on demand of money, the petitioner became annoyed and instructed her driver to start the car and run over the complainant, due to which, the petitioner's driver hit the complainant by the car. When the son and grandson of the complainant came to the assistance of their mother, the accused persons gave beatings to the complainant and her son as well as grandson. Allegedly, serious injuries were sustained by the victims.

4. It is the case of the petitioner that the subject FIR was nothing but a counterblast to FIR No. 666/2007 dated 31.12.2007, that was registered at police station KM Pur on the instance of the petitioner for the offences under Sections 147/149/341/323/509/506 of the IPC. It is submitted that the petitioner was authorised to monitor civil discipline in the concerned area and to report about the unauthorised construction. It is further submitted that certain area had been taken over illegally by a gang which was headed by the son of Respondent No.4, due to which, she had a vested interest against the petitioner.

5. Perusal of FIR No. 666/2007 indicates that the same was registered pursuant to the same incident which took place on 31.12.2007. It is alleged in the said FIR that on 31.12.2007, when the petitioner along with some volunteers had reached the market and started clicking some photographs, Respondent No.4 came in front of the camera again and again to start a fight. When the petitioner moved towards her car, Respondent No.4 kicked her from behind, pulled her hair and kicked the petitioner into the



drain in front of the park. In the meanwhile, the son of Respondent No.4 along with other accused persons also started beating the petitioner. When the petitioner's driver-Sheeshpal came to her rescue, he was also beaten with a stick near the car. One of the accused persons therein also strangled Sheeshpal. The accused persons also threatened the petitioner.

6. While the proceedings in the subject FIR were stayed way back in the year 2008 itself, the proceedings in the cross-FIR continued. Undisputedly, by judgment dated 26.08.2019 passed in the case arising out of FIR No. 666/2007, the learned Trial Court has already convicted the complainant in the present case along with other accused persons therein for the offences under Sections 147/149/323/341/506/509/34 of the IPC. It is pointed out that the said judgment has since attained finality.

7. In the said judgment on conviction, the learned Trial Court duly appreciated the material in regard to the incident that happened on 31.12.2007 and held that there is evidence to show that each of the accused persons, including Respondent No.4, actively participated in the use of criminal force against the petitioner, with an object to prevent the petitioner from clicking photographs and from obstructing the accused persons illegal encroachment. Tangible proof was found of unlawful activities by Respondent No.4 and other accused persons therein. It was held that the prosecution has been able to prove beyond reasonable doubt that Respondent No.4 along with other accused persons had formulated unlawful assembly and committed the offence. The learned Trial Court took note of the injuries suffered by the petitioner as well as Sheeshpal and found that the medical evidence was consistent with the version of the victims.



The relevant portion of the judgment is as under:

“15. In the. present case, the accused persons are family members and belong to a common community. There is evidence to show that each of them actively participated in the use of criminal force of complainant and Shishpal with object to prevent her from obstructing their alleged illegal encroachment by clicking photographs of such areas. There is tangible proof of such unlawful object symbolized in use of criminal force and violence on victim resulting in simple injury to them. It stands established beyond reasonable doubt that accused formulated an unlawful assembly of more than five members to commit the aforementioned offences and thus their act would also fall within the purview of section 146 IPC i.e. rioting by use of force and violence in prosecution of their common object to prevent the complainant from taking photographs and pictures of the site. **As such, accused persons are held guilty of offence punishable u/s 147 read with section 149 IPC.**

16. **Section 323/34 IPC:-** Now whether accused persons assaulted or used criminal force on the complainant, complainant has categorically elicited the role of each accused in beating her. Her version in the complaint Ex PW1/A remains impeccably reiterated as her testimony as PW-1 despite lapse of almost 10 years from the incident. It is the case of prosecution that owing to the use of criminal force by the accused persons in furtherance of their common intention to prevent the complainant from clicking photographs which she was entitled to do, complainant as well as her associate Shishpal suffered injuries which are simple in nature. MLC of complainant Ex A-2 (MLC. No. 8238/07) and A-3 (MLC No. 8673/08) and that of Shishpal as Ex A-1 (MLC 8237/07) revealed that the complainant sustained tenderness on her right wrist, mild scalp tenderness and minor abrasions over the right wrist while as per Ex A-3 she was also noted to be in plaster condition which was put on 31.12.2007 in her right hand. MLC of Shishpal Ex A-1 shows tenderness on his back and left hand. These MLCs have been admitted by the accused persons u/s 294 Cr.P.C. In cross examination of complainant or Shishpal, there is no suggestion that these injuries were self inflicted by them. It is the defence of the accused persons that if the accused persons are believed to have assaulted complainant and Shishpal in the manner described by them, they could not have escaped with such minor injuries. In the considered opinion of the court, presence of injury on the scalp of the complainant supports her averments that accused Sona Devi banged her head on the pavement which she protected by covering it by her arms, where she is also



seen to have sustained on her right wrist. The mere fact that the accused persons used criminal force to the extent of causing simple injury to the complainant and Shishpal would not absolve them of the offence merely because no major injuries have been sustained by the victims.”

8. While FIR should ordinarily not be quashed at the inception when there are disputed questions of fact, however, it is settled law that this Court is empowered to quash the FIR when the record suggests that the same has been registered to wreak vengeance. In the case of ***State of Haryana v. Bhajan Lal : 1992 Supp (1) SCC 335***, the Hon’ble Apex Court had illustrated the category of cases where the Court may exercise its extraordinary power under Article 226 of Constitution of India or inherent jurisdiction to quash the proceedings, wherein one of the illustrated categories was that of criminal proceedings that have been instituted due to personal grudge. The relevant portion of the judgment is reproduced hereunder:

“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 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 supplied)

9. Where the accused seeks quashing of FIR essentially on the ground that the proceedings are vexatious, the Court is required to look more closely into the FIR and to appreciate the attending circumstances emerging from the record of the case as well with due care and circumspection [Ref. **Mahmood Ali & Ors. v. State of U.P & Ors. : 2023 SCC OnLine SC 950**].

10. From the facts of the present case, it is apparent that the subject FIR was registered after the registration of FIR on a complaint given by the petitioner. The judgment passed by the learned Trial Court in the case arising out of FIR No. 666/2007 clearly indicates that Respondent No.4 along with other accused persons therein had formed an unlawful assembly with the



purpose of stopping the petitioner from clicking photographs and given beatings to the petitioner as well as Sheeshpal, for which the complainant was ultimately convicted. The subject FIR appears to be in the nature of defence and a maliciously motivated counter blast to FIR No. 666/2007 for wreaking vengeance upon the petitioner. Both the FIRs pertain to the incident that took place on 31.12.2007, and the conviction of Respondent No.4 in relation to her conduct on the said date appears to have attained finality. Although the allegations levelled are serious in nature, considering the findings of the learned Trial Court in relation to Respondent No.4 having been a part of an unlawful assembly on the date of the incident and beaten both the petitioner and Sheeshpal, the allegations made in the subject FIR in relation to Respondent No.2 having been hit by a car by Sheeshpal at the instance of the petitioner appear to have been for the reason of counterblast. The jurisdiction court as noted above has already convicted the complainant for forming an unlawful assembly and causing injuries to the Petitioner.

11. In such factual background, setting the criminal law machinery in motion only for the reason that the complaint discloses commission of cognizable offence would be an abuse of the process of the court.

12. Even if the allegations of the complainant are taken at the highest, considering the complainant's conviction in a case arising out of same incident, the same can at best be considered as a self-defence or an altercation at the stage when the complainant has formed an unlawful assembly and caused injuries to the petitioner and another person when they were carrying out certain functions assigned to them.



13. In view of the above, the present petition is allowed. Accordingly, FIR 162/2008 and all consequential proceedings arising therefrom are quashed.

14. The present petition is allowed in the aforesaid terms. Pending application(s), if any, also stands disposed of.

AMIT MAHAJAN, J

OCTOBER 16, 2025

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