



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

112

CRR-1605-2024 (O&M)
Decided on : 17.02.2026

Sunit Kumar

..... Petitioner

VERSUS

State of Haryana & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Ankush Verma, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG Haryana.

Mr. Udit Garg, Advocate for
Mr. Ritvik Garg, Advocate for respondent No.2.

SURYA PARTAP SINGH, J.

1. The extraordinary jurisdiction vested in this Court by virtue of Section 482 of Code of Criminal Procedure, has been filed for quashing of FIR No.13 dated 08.01.2018 under Sections 457, 380 and 411 of IPC, Police Station Shahabad, District Kurukshetra, Haryana.

2. In nut-shell, the facts emerging from record are that the abovementioned FIR came into being on the complaint of Secretary Municipal Corporation Shahabad Markanda, who had complained about an incident of theft of steel material in the Cold Store. It was reported by the abovenamed complainant that in CWP No.14340/2009, it was observed that near Punjab National Bank, Shahabad there was illegal possession over the



land belonging to Municipal Corporation and that on 24.12.2017 at about 07:00 P.M. it was noticed that there were efforts to remove the material from the abovementioned premises and for that purpose, the material was loaded in a tractor trolley.

3. It is the case of the prosecution that in view of abovementioned complaint, formal FIR of this case was lodged and the investigation taken up. According to prosecution, during the course of investigation, the accused Ankit was arrested, who during interrogation suffered a disclosure statement, wherein he stated that once they lost case to Municipal Committee, the accused Jasbir Singh contacted him and called the scrap vendor Sunit Kumar, i.e. the petitioner, and a deal was struck for the sale of steel and wood scrap lying in the abovementioned premises. It is the case of the prosecution that in view of abovementioned disclosure statement, abovenamed Jasbir Singh and Sunit Kumar were implicated as accused in the present case.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner is innocent, who has nothing to do with the dispute with the owner of Cold Store and the Municipal Corporation, and that being a scrap dealer when a contact was made with the petitioner in bona fide manner, he had purchased the material for a consideration, and was removing the same. As per learned counsel for the petitioner, there cannot be a *mens rea* on the part of petitioner, and that the present FIR has already been quashed qua



similarly placed co-accused, namely Jasbir, vide order dated 13.09.2023 in CRM-M-29579-2018.

6. It has been further contended by learned counsel for the petitioner that the case of the petitioner is at par with the co-accused Jasbir Singh, and that otherwise also the allegations against the petitioner with regard to his involvement in the commission of crime are vague, inconclusive. In view of abovementioned contentions, the FIR in question has been sought to be quashed qua co-accused Sunit Kumar also.

7. The abovementioned arguments have been controverted by learned State Counsel. It has been contended by learned State Counsel that there are very specific allegations against the petitioner with regard to removal of material from the property belonging to Municipal Corporation, and that this plea of the petitioner that he was not aware of the judgment passed by this Court in CWP No.14340/2009, is a defence plea and the same cannot be entertained unless the trial is complete and the defence evidence qua abovementioned plea is adduced.

8. According to learned State Counsel, the case of the petitioner stands on a different footing from the case of Jasbir because the allegation against Jasbir was that he was responsible for introducing Ankit with the petitioner, whereas the petitioner was actively involved in removing the scrap from the spot. In view of abovementioned distinguishable factor, the learned State Counsel has sought for dismissal of present petition.

9. The record has been perused carefully.

10. With regard to scope and indulgence of this Court, wherein extraordinary jurisdiction for quashing of FIR can be exercised, the guiding principles have been laid down by the Hon'ble Supreme Court of India in the case of 'Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Others' 2021 SCC Online SC 315. Those guidelines prescribe that:

- “a) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;
- b) Courts would not thwart any investigation into the cognizable offences;
- c) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;
- d) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).
- e) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- f) Criminal proceedings ought not to be scuttled at the initial stage;
- g) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;
- h) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;



- i) The functions of the judiciary and the police are complementary, not overlapping;
- j) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- k) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- l) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;
- m) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;
- n) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur and Bhajan Lal, has the jurisdiction to quash the FIR/complaint;

- o) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;
- p) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or “no coercive steps to be adopted” and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or “no coercive steps” either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India;



- q) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.
- r) Whenever an interim order is passed by the High Court of “no coercive steps to be adopted” within the aforesaid parameters, the High Court must clarify what does it mean by “no coercive steps to be adopted” as the term “no coercive steps to be adopted” can be said to be too vague and/or broad which can be misunderstood and/or misapplied.”

11. In addition to above, in the case of ‘State of Haryana Vs. Ch. Bhajan Lal’, 1991(1) RCR 383, the Hon’ble Supreme Court of India after reviewing large number of cases on the question of quashing of FIR has propounded that the FIR can be quashed in the following circumstances:-

- a) 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.
- b) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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.

- c) 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.
- d) Where, the allegations in the F.I.R. 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.
- e) Where the allegations made in the F.I.R. 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.
- f) 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.
- g) 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.

12. If the factual matrix of the present case is analyzed in the light of the abovementioned principles of law, it transpires that the role attributed to the petitioner is not at par with the role attributed to the Jasbir, as there was no allegation against Jasbir that he had tried to remove the material from the spot. On the other hand, there is an allegation with regard to commission of offence of theft against the petitioner. With regard to bona fide intentions behind the abovementioned act, the decision can be taken only on appreciation of evidence to be led during trial. At this stage, merely on the basis of plea of petitioner that he had no knowledge about the verdict of this Court, any finding cannot be returned.

13. Accordingly, at this stage, there is nothing on record to show that trial of petitioner who was allegedly involved, in active manner, in the commission of alleged theft, cannot be termed as the abuse of process of Court. Thus it is hereby held that there is no scope for quashing of FIR. In view of above in the opinion of this Court, for want of merits, the present petition deserves dismissal. The same is hereby *dismissed*, accordingly.

14. Pending miscellaneous application(s), if any, shall stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

17.02.2026
Vinod

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No