

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18654-2023
Date of Decision : 29.04.2023

Sandeep Petitioner

Versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. R.S.Randhawa, Advocate
for the petitioner.

VIKRAM AGGARWAL, J

1. The present petition has been preferred under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') seeking the quashing of FIR No.746 dated 04.11.2018, registered under Sections 306, 120-B IPC, at Police Station Meham, District Rohtak and all subsequent proceedings arising therefrom qua the petitioner.

2. One Phool Kumar submitted a complaint to the police alleging that he had one son Ramesh and one daughter Sheela. The marriage of Sheela was solemnized earlier and from the said wedlock, she had one daughter. The husband of Sheela, however, expired 08 years prior to the submission of the complaint after which Sheela alongwith her daughter was living at her parental house. Ramesh, son of the complainant, was married to one Jyoti. After the marriage, the couple started residing at Kharkhoda where Ramesh

had earlier purchased a plot and had subsequently, after marriage, constructed a house. Jyoti, her mother Shyamo, her father Dalbir and her maternal uncles Chaand and Jogender started pressurizing Ramesh and made him sell his house at Kharkhoda and retained the sale consideration with them. Thereafter, Ramesh and Jyoti started living in a rented accommodation at Meham. However, frequent disputes used to arise between them with regard to the sale proceeds of the house at Kharkhoda. Disputes also used to arise between Ramesh, his in-laws, maternal uncles of his wife and her brothers namely Vinod and Sumit. Jyoti then started pressurizing Ramesh to send Sheela back to her in-laws house and on refusal of Ramesh to do so, a false case was registered against them alleging that they had tried to kill Jyoti by administering poison to her. They were then pressurized on account of the case and Sheela was sent back to her in-laws house. Four acres of land of complainant Phool Kumar was also transferred in the name of the minor sons of Jyoti on account of the pressure having been exerted upon him. Ramesh wanted that Sheela should come back but the accused threatened that if he brought back Sheela, they would kill him. On 03.11.2018, Ramesh visited his sister Sheela at the house of her in laws and came back to Meham in the evening. However, on account of the pressure, he committed suicide by consuming some poisonous substance. On 07.12.2018, Sheela found a suicide note in which it had been alleged that the present petitioner Sandeep had illicit relations with Jyoti and that he (Ramesh) was disturbed on account of this fact.

3. It is the case of the petitioner that the suicide note is a false and fabricated document prepared by the complainant to implicate the petitioner

in a false case and that the true facts are that Ramesh had taken financial help from the petitioner and after the death of Ramesh, when the petitioner sought his amount back, he was implicated in the FIR in question. It has been averred that the stands are contradictory because on one hand Jyoti and her relatives are being blamed for the death of Ramesh and on the other hand a suicide note is being introduced to implicate the petitioner. It has been averred that the FIR, therefore, deserves to be quashed.

4. I have heard learned counsel for the petitioner and have perused the paper book.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. Reference has been made to the suicide note Annexure P-3, FIR Annexure P-1, final report submitted under Section 173 Cr.P.C. (Annexure P-2) and it has been submitted that even a *prima facie* case punishable under Section 306 is not made out as no abetment can be said to have been caused by the petitioner. It has been contended that the very fact that Ramesh had allegedly committed suicide on 03.11.2018 and the suicide note had been recovered on 07.12.2018 i.e. more than one month after the commission of suicide by Ramesh makes it clear that no offence under Section 306 IPC is made out. In support of his contentions, learned counsel has placed reliance upon the judgments of a Coordinate Bench of this Court in *Rajbir Singh and others vs. State of Punjab and another, passed in CRM-M-36570-2021, decided on 02.02.2022* and *Harbhajan Sandhu vs. State of Punjab and another 2022 (1) Law Herald 771*.

6. I have considered the submissions made by learned counsel for the petitioner and have perused the paper book.

7. Before advertiring to the merits of the case, it would be important to examine that as to what would be the circumstances which would lead to an FIR being quashed. Very recently, vide its judgment dated 28.11.2022, the Hon'ble Apex Court, while deciding criminal appeals arising out of **SLP (Crl.) No. 39 of 2022** titled as **'Ramesh Chandra Gupta Vs. State of U.P. and others'** and other connected matters, discussed the entire law on the subject. The Hon'ble Supreme Court firstly discussed the judgment of the Hon'ble Supreme Court in **Vineet Kumar and Others Vs. State of Uttar Pradesh and Another (2017) 13 SCC 369**. Reference was made to paras 22, 23 and 41 of the said judgment, wherein it had been observed as under:-

“22. Before we enter into the facts of the present case it is necessary to consider the ambit and scope of jurisdiction under Section 482 CrPC vested in the High Court. Section 482 CrPC saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.

23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in State of Karnataka v. L. Muniswamy (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. In para 7 of the judgment, the following has been stated :

'7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to 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 proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to 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 provision 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.'

41. Inherent power given to the High Court under Section 482 CrPC is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this

Court in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended with mala fides and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 CrPC to quash the proceeding under Category 7 as enumerated in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 which is to the following effect:

'102. (7) Where a criminal proceeding is manifestly attended with mala fides 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.'

Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 but did not advert to the relevant facts of the present case, materials on which final report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings."

8. Reference was then made to the judgment of the Hon'ble Apex Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others 1992 Supp. (1) 335*** wherein it had been observed by the Hon'ble Supreme Court as under:-

“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.”*

9. The aforesaid principles have to be, therefore, kept in mind while dealing with the present matter.

10. Reverting to the facts of the present case, a young man unfortunately committed suicide on 03.11.2018. The FIR in question was registered on a complaint having been submitted by his father. On 07.12.2018, a suicide note is said to have been found by the sister of the deceased namely Sheela. The suicide note is on record as Annexure P-3 in which it has been stated that being fed up from the present petitioner, Ramesh was committing suicide. In the final report submitted under Section 173 Cr.P.C., it has been stated that a report from the FSL was received on

11.11.2009. The trial Court will now apply its mind to the facts of the case and will proceed further. The petitioner will have every opportunity to bring all facts to the notice of the trial Court at the time of framing of charges and infact shall have every opportunity to demolish the case of the prosecution during trial. If the principles laid down by the Hon'ble Supreme Court of India in the case referred to in the preceding paragraphs are applied to the facts of the present case, it becomes clear that there is no ground to quash the FIR in view of the allegations levelled therein as also the allegations levelled in the suicide note. Whether the petitioner is guilty or not shall be a matter of trial and this Court, exercising jurisdiction under Section 482 Cr.P.C., cannot under any circumstance give its opinion on the merits of the case. Recently, the Hon'ble Supreme Court of India in Mahendra K.C. vs. State of Karnataka & Anr. 2021 Cri. L.R. (SC) 1544 was examining a similar issue wherein the Karnataka High Court had quashed a complaint and proceedings initiated pursuant thereto registered for an offence punishable under Section 306 read with Section 34 IPC. In this case also there was a suicide note and it had been contended by the accused that no offence under Section 306 IPC was made out. The Hon'ble Supreme Court of India held that the Karnataka High Court had failed to notice the distinction between a petition for quashing under Section 482 Cr.P.C. and a criminal trial or an appeal against the conviction on a charge under Section 306 IPC and had transgressed the limits of the jurisdiction under Section 482 Cr.P.C. It was held that the High Court had tested veracity of the allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial. It was held that

at the stage when the High Court considers a petition for quashing under Section 482 Cr.P.C., the test to be applied is whether the allegations in the complaint as they stand, without adding or detracting from the complaint, *prima facie* establish the ingredients of the offence alleged and that at this stage, the High Court cannot test the veracity of the allegations. The aforementioned observations have been given in para No.16 of the judgment wherein it has been laid down as under:-

*“16. On reading the judgment of the Single Judge, it would appear that the Single Judge has failed to notice the distinction between a petition for quashing under Section 482 (which was being considered) and a criminal trial or an appeal against a conviction on a charge under Section 306. The Single Judge has transgressed the limits of the jurisdiction under section 482 of the CrPC, 1973. The judgment is replete with hypothesis and surmises on the basis of which the Single Judge has reached an inference on facts. The Single Judge has tested the veracity of the allegations in the criminal complaint and in the suicide note left behind by the deceased without having the benefit of an evidentiary record which would be collected during the trial. At the stage when the High Court considers a petition for quashing under section 482 of the CrPC, 1973 the test to be applied is whether the allegations in the complaint as they stand, without adding or detracting from the complaint, *prima facie* establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected during the course of trial. The High Court in the present case has virtually proceeded to hold a trial, substituting its own perception for what it believed should or should not have been the normal course of human behavior. This is clearly impermissible.”*

11. I have gone through the judgments relied upon by learned counsel for the petitioner. In view of the categoric view of the Hon'ble Supreme Court of India in ***Mahendra K.C.'s case*** (supra), the judgments relied upon by learned counsel for the petitioner would not come to the aid of the petitioner. It has also to be borne in mind that in criminal cases, no straitjacket formula can ever be laid down and each case has to be decided on its own facts.

12. In view of the aforementioned facts and circumstances and keeping in view the law on the subject, as discussed above, I do not find any reason to exercise powers under Section 482 Cr.P.C. for quashing of the FIR in question.

Finding no merit in the present petition, the same is hereby dismissed.

(VIKRAM AGGARWAL)
JUDGE

29.04.2023

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