

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

Date of decision: 24th January, 2022

IN THE MATTER OF:

+ **W.P.(CRL) 502/2021 & CRL.M.A. 3511/2021**

DR KARUNAKAR PATRA..... Petitioner

Through Mr. Kumar Piyush Pushkar, Advocate

versus

STATE Respondent

Through Mr. Chirag Khurana, Advocate for Mr.
Ashish Aggarwal, ASC for the
State

Mr. Madhusudhan Bhayana,
Advocate for the
Complainant/Respondent No.2

**CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

SUBRAMONIUM PRASAD, J.

1. This petition has been filed under Article 226/227 of the Constitution of India, 1950, read with Section 482 Cr.P.C. seeking the quashing of FIR No. 89/2021 dated 07.02.2021 registered at PS Jahangir Puri under Sections 354A/506 of the Indian Penal Code, 1860 (*hereinafter*, "IPC").

2. The facts, in brief, leading up to this petition are as follows:

- a) It is stated that in December 2016, the Petitioner, who is an Assistant Professor at the University of Delhi, had gone to his hometown with his family, and during this time, the cemented water tank that had been constructed for his flat on the roof top,

was demolished by one Mrs. Meena Kumar/Respondent No.2. The Respondent No. 2 subsequently constructed a room and toilet, and in the process, broke the pipe that would be used to supply water from the water tank to the Petitioner's flat. When the Petitioner returned, he was shocked to see that there was no water and when he objected to the illegality of the constructions, Respondent No.2 and her family assured the Petitioner that they would reconstruct it. However, they failed to do so and the Petitioner installed a plastic water tank with his own money.

- b) It is stated that the Petitioner's wife suffers from multiple ailments and that the illegal construction is posing a serious threat to her life as it is blocking ventilation. The Petitioner's wife has made several requests as well as wrote multiple letters to the DDA authorities regarding the illegal construction instituted by Respondent No.2 and her family. Multiple representations were also given to the police authorities, however, neither the DDA nor the police acted upon these complaints. It is stated that the laxity on the part of these authorities was due to the fact that Respondent No.2's daughter-in-law was a Constable with the Delhi Police.
- c) It is stated that as a consequence of the complaints, Respondent No.2 and her son, namely Jatin, abused and threatened the Petitioner's wife along with the entire family with dire consequences. Thereafter, the Petitioner's wife lodged a criminal complaint dated 19.01.2017 at PS Jahangir Puri against

Respondent No.2, Jatin and the daughter-in-law. However, no FIR was registered despite the disclosure of a cognizable offence. It is stated that Jatin again molested the Petitioner's wife as a result of which she called up the police. However, due to police pressure, the Petitioner's wife was forced to compromise with Jatin and the latter submitted an apology letter dated 27.07.2018.

- d) It is stated that an RTI dated 12.01.2017 filed by the Petitioner's wife to enquire about the details regarding the action taken by DDA against the illegal constructions revealed that DDA claimed to have information about them. Accordingly, the Petitioner's wife filed a Civil Suit *vide* Suit No. 826/2017 dated 23.10.2020 seeking demolition of the illegal construction with Respondent No.2 being made party to that suit as Respondent No.8 therein.
- e) It is stated that on 26.10.2020, the Petitioner was attacked by one Mohan Singh who allegedly conspired with Respondent No.2 who had apparently assured him that no action would be taken by the police against him on account of her daughter-in-law working with Delhi Police. The Petitioner thereafter filed a complaint at PS Jahangir Puri and the police register a non-cognizable report dated 28.10.2020 under Sections 323/506 IPC. However, no FIR was registered. It is stated that on 21.11.2020, infuriated by the filing of the civil suit, Jatin started abusing the Petitioner's wife and threatened her with dire consequences, and as a result, the Petitioner's wife submitted a

written complaint dated 21.11.2020 at PS Jahangir Puri. Yet again, no FIR was registered.

- f) It is stated that in response to the written complaint, the police called the Petitioner and pressurized the Petitioner and his wife to compromise the matter. On their refusal to do so, it is stated that Respondent No.2 in collusion with the police, lodged the instant impugned FIR on 07.02.2021. It is stated that without giving a copy of the FIR to the Petitioner, the police took the Petitioner to the police station and asked him to pay Rs. 5,00,000/- as a bribe to settle the matter. It is stated that the Petitioner, along with his wife, were let off around 12:00 AM only after the intervention of his lawyer. It is stated that the Petitioner has been asked to join investigation at odd hours on several occasions.

3. Mr. Kumar Piyush Pushkar, learned Counsel appearing for the Petitioner, has submitted that the instant FIR deserves to be quashed as the same has been lodged with a *mala fide* intent and is an attempt to coerce and arm-twist the Petitioner into withdrawing the complaint that has been lodged by the Petitioner's wife against the son of Respondent No.2, Jatin who is a habitual offender. He has submitted that more than 20 complaints have been filed by the Petitioner's wife against Respondent No.2 and her family members, and that the same are pending before various authorities. He has submitted that the instant impugned FIR contains nothing but bald allegations and has been registered in connivance with the police as the daughter-in-law of Respondent No.2 is a part of Delhi Police.

4. Mr. Pushkar has submitted that the instant FIR is an abuse of the

process of law and was only filed after the Petitioner's wife had filed the civil suit and then filed a written complaint against Respondent No.2's son. He has argued that the ambiguous general allegations against the Petitioner have been made without mentioning the date and time of the offence and, therefore, are indicative of how the same are manufactured and concocted. He has submitted that no evidence or proof has been forwarded by Respondent No.2 to substantiate her allegations and, therefore, it can be presumed that the same is false, frivolous, malicious and vexatious in nature.

5. The learned Counsel has submitted that this Court has the power under Section 482 Cr.P.C. to quash the instant FIR and has placed on record multiple judgements to buttress this submission. He has further informed this Court that the Petitioner is a man of high stature who has been teaching as a professor at Delhi University, and that the instant FIR taints his reputation and thereby, closes all the doors to future prospects for the Petitioner. He has submitted that there also exists CCTV footage which proves that the Petitioner did not commit the alleged acts against Respondent No.2.

6. *Per contra*, Mr. Ashish Aggarwal, learned ASC for the State, has submitted that the Petitioner and his wife are habitual complainants and that both of them have filed several complaints regarding the construction that has taken place in their neighborhood. He has submitted that the regarding their complaints of illegal construction, letters had indeed been sent to the Municipal Corporation of Delhi (MCD) for taking necessary action and that the request had also been sent to the SDM for taking further action. He has stated that appropriate action has been taken as per the law on each and every complaint which has been filed by the Petitioner and his wife.

7. The learned ASC has brought to the notice of this Court that on

27.02.2021, the Petitioner had been dismissed from his RWA secretary post for abusing his position and that these complaints were solely filed against the residents as the Petitioner was angry about his removal. He has argued that the son of Respondent No.2, Jatin, does not live in that neighborhood and only visits his parents occasionally. He has further stated that on 26.10.2020, Kalandra under Sections 106/150 Cr.P.C. had been prepared against the Petitioner, his wife, and their neighbor.

8. Mr. Madhusudan Bhayana, learned Counsel for Respondent No.2/Complainant, has also argued and placed his written submissions on record. These submissions state that the Petitioner is an extortionist and that allegations made in his petition are false and baseless. The written submissions further state that in Parbatbhai Aahir & Ors. v. State of Gujarat & Anr., (**Criminal Appeal No. 1723 of 2017**), the Supreme Court had laid down broad principles in relation to Section 482 Cr.P.C. and had stated that the inherent powers of this Court could not be invoked to quash criminal proceedings involving serious and heinous crimes which were not private in nature and had a serious impact upon society. Further, it has been stated that sexual harassment cases cannot be quashed under Section 226/227 of the Constitution of India and same needs to be decided through the process of trial.

9. Heard Mr. Kumar Piyush Pushkar, learned Counsel for the Petitioner, Mr. Ashish Aggarwal, learned ASC for the State, and Mr. Madhusudan Bhayana, learned Counsel for Respondent No.2/Complainant, and perused the material on record.

10. The Supreme Court has time and again laid down the parameters that must be adhered to by a High Court while exercising its inherent power

under Section 482 Cr.P.C. to quash an FIR. Along with the parameters, it has been consistently observed by the Apex Court that the inherent power in a matter of quashment of FIR has to be exercised sparingly and with caution, and only when such exercise is justified by the test specifically laid down in the provision itself. In this context, it would be pertinent to reproduce Section 482 Cr.P.C.:

"482. Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers 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."
(emphasis supplied)

11. In State of Haryana and Ors. v. Bhajan Lal and Ors., **1992 Supp (1) SCC 335**, the Supreme Court provided a precise, clearly defined set of inflexible guidelines laying down instances where such an inherent power could be exercised for quashment of an FIR. The relevant portion of that judgment has been reproduced 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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

12. Therefore, quashing of criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere [See also Kamal Shivaji Pokarnekar v. State of Maharashtra and Ors., (2019) 14

SCC 350].

13. A perusal of the material on record in the present case, in this Court's considered opinion, reveals that the contents of the FIR are sketchy in nature and are void of any specifics regarding the offences which have allegedly been committed. While this Court is cognizant of the fact that an FIR is not an encyclopaedia which must disclose all facts and details, however, in the instant case, a bare reading of the impugned FIR No.89/2021 *prima facie* indicates that the FIR arises out of bald allegations and contradictory statements.

14. Furthermore, a reading of the Status Report also does not reveal anything about the offences being referred to in the impugned FIR. The Status Report states that the Petitioner and his wife were habitual complainants and have filed multiple complaints against the construction that would take place in the neighbourhood, and therefore, it is evident that the instant FIR was maliciously instituted with an ulterior motive for wreaking vengeance on the Petitioner, and with a view to spite him and his wife due to a private and personal grudge. A comprehensive reading of the matter at hand reveals that the impugned FIR was merely a counterblast and was solely registered to arm-twist the Petitioner and his wife into withdrawing the complaints that had been filed against Respondent No.2 and her family.

15. This Court expresses its anguish at how provisions such as Sections 354A/506 IPC are falsely invoked at the drop of a hat to register one's displeasure at the conduct of another individual. This merely trivialises the offence of sexual harassment and casts a doubt on the veracity of the allegations filed by every other victim who has in reality faced sexual

harassment, thereby setting back the cause of women empowerment.

16. This Court, therefore, deems it fit to exercise its inherent power to quash FIR No. 89/2021 dated 07.02.2021 registered at PS Jahangir Puri under Sections 354A/506 IPC to prevent the abuse of the process of any Court and to secure the ends of justice.

17. With the above observations, this petition is allowed. All the pending application(s), if any, are disposed of.

SUBRAMONIUM PRASAD, J.

JANUARY 24, 2022

Rahul

भारत्यमेव जयते