

**HIGH COURT OF UTTARAKHAND AT
NAINITAL**

THE HON'BLE SRI JUSTICE RAKESH THAPLIYAL

Writ Petition (Criminal) No. 299 of 2024

Harbans Singh ChughPetitioner

Versus

State of Uttarakhand and othersRespondents

Counsel for the petitioner : Mr. Arvind Vashisth, learned Senior Counsel assisted by Mr. Vikas Kumar Guglani, learned counsel
Counsel for the State : Mr. Amit Bhatt, Government Advocate assisted by Mr. Saurabh Pandey, learned Brief Holder
Counsel for the respondent : Mr. S.K. Mandal, learned counsel and Mr. Lalit Sharma, learned counsel

Reserved on : 16.04.2024

Delivered on : 10.05.2024

Hon'ble Rakesh Thapliyal, J. (Oral)

By the instant writ petition preferred under Article 226 of the Constitution of India, the petitioner is challenging the First Information Report, lodged on 28.03.2024, bearing FIR No. 0083 of 2024 for the offences punishable under Sections 302, 120-B, 34 of IPC, at Police Station, Nanakmatta, District Udham Singh Nagar, lodged by one Jasbir Singh, resident of Charubeta, Khatima, District Udham Singh Nagar. The reliefs as sought in the instant writ petition are being extracted herein as below: -

"PRAYER

It is therefore most respectfully prayed that this Hon'ble may very graciously be pleased to :-

- 1) Issue a writ, order or direction in the nature of certiorari quashing the first information report dated 28-03-2024 lodged by the Respondent no. 3 against the accused persons registered as First Information Report No. 0083 of

2024 Under Section 302, 120B, 34, of I.P.C. of Police Station Nanakmatta, District Udham Singh Nagar.

- ii) Issue a writ, order or direction in the nature of mandamus directing the respondent no. 2 not to harass and arrest the petitioner in connection with first information report 28-03-2024 lodged by the Respondent no. 3 against the accused persons registered as First Information Report No. 0083 of 2024 Under Section 302, 120B, 34, of I.P.C. of Police Station Nanakmatta, District Udham Singh Nagar.
- iii) Issue any other appropriate order or direction as the Hon'ble Court thinks fit and proper."

2. Brief facts of the case are that on 28.03.2024, the Dera Parmukh of Dera Kar Sewa Shri Nanakmatta Sahib, Jathedar Baba Shri Tarsem Singh was sitting on the chair in the early morning outside the lungar hall and was completing his daily routine work, then at about 6.15 a.m in the morning, one "black colour splendor motorcycle" came wherein two sikh persons were sitting, entered from main gate and the person who was sitting behind in motorcycle was having automatic rifle came near to Baba Tarsem Singh and opened fire and Baba Tarsem Singh stood from his chair. After being shot, the motorcycle take round from back side of the chair and again from automatic rifle opened fire by two bullets and then the persons who opened fire fled away from the spot from southern side of the campus and after seeing this incident of causing open fire by the shooters, one Jaspal Singh son of Mangal Singh ran, then the shooters threatened him and again opened fire which hit the northern pillar of door of lungar hall. Thereafter, Gurcharan Singh @ Channa

son of Hardayal Singh resident of village Jagat, P.S. Amaria, District Pilibhit, U.P., Heera Singh, son of Amar Singh resident of Village Dhakiyajalalpur, P.S. Kareli, District Pilibhit, Mahendra Singh son of Kartar Singh resident of Village Sunpahar P.S. Khatima, District Udham Singh Nagar, residing in Dera, Devendra Singh @ Mintu and Nirwail Singh son of Shri Kashmir Singh resident of Dera, who all are present at the place of occurrence, saw the entire incident.

It is also mentioned in the FIR, that both the shooters were staying in Room No. 23 of "Bhai Mardana Yatri Niwas, Nanakmatta", situated in the premises of Gurudwara, and two days, prior to the incident, both the shooters were saw by the complainant and one Nirwail Singh and there is an entry in the visitor register of Yatri Niwas wherein the Aadhaar Card No. 732717430208 was mentioned and name Saravjeet Singh son of Swaroop Singh, resident of Miyawind District Tarantaran (Punjab) and Mobile No. 9580037450 is also entered.

It is also alleged in the FIR that these persons came in Sarai without any personal vehicle and when they were residing in Sarai, no arms and weapon were seen with them and the motorcycle used at the time of incident and the weapon was supplied to them by some local person, by making a conspiracy and the person who was sitting in the rear side of the motorcycle, it came to know that his name

was Amarjeet Singh @ Bittu @ Ganda son of Surender Singh resident of Village Sihora, P.S. Bilaspur, District Rampur.

It is also alleged in the FIR that Baba Tarsem Singh was always stopping to misappropriate the property of Dera Kar Sewa, Gurudwara Sahib and that is the reason that the Vice President of Tarai Mahasabha, Pritam Singh Siddhu son of Lal Singh resident of Village Khempur P.S. Gadarpur and President of Gurudwara Prabandhak Samitti Harbansh Singh Chugh son of Ranjeet Singh resident of Gadarpur and Baba Anoop Singh son of Shri Ram Singh resident of Village Nawabganj P.S. Bilaspur, District Rampur, their conduct in causing this incident are suspicious.

It is also mentioned in the FIR that against Pritam Singh Siddhu, one Rakshpal Singh lodged a complaint/FIR for instigating to commit suicide in which Baba Tarsem Singh was assisting Rakshpal Singh.

It is also alleged in the FIR that there is an organized conspiracy to cause this incident, apart from Baba Anoop Singh, Pritam Singh Sidhu and Harbansh Singh, there may also be possibility of involvement of many other persons.

It is further alleged in the FIR that about 5 days prior to the said incident, a post was uploaded by Fatehjeet Singh Khalsa resident of Village Vilhara P.S. Amaria, District Pilibhit U.P. in his facebook I.D. www.facebook.com/fateh.jeet.9?mibextid=dGKd06 in

Gurumukhi language with its Hindi translation. This person Fatehjeet Singh is also associated with these persons and his involvement may also be possible and it appears from this post, as uploaded in facebook, have some connection to cause this incident.

It is further mentioned in the FIR that immediately after this incident with the help of other sewadars, the injured Baba ji was brought to the hospital where doctors declared him as dead.

It is also mentioned in the FIR that since he (the complainant) was busy in post-mortem and in other process and furthermore there was mass sangat in the Dera due to which immediately he could not make a complaint and this is also recorded in the CCTV camera in which it is found that the person who was driving the motorcycle was wearing blue trouser, white shirt and white *parna* and the person who was sitting in rear side of the motorcycle was wearing blue shirt, blue trouser and deep blue *parna* and both the persons are "केश धारी सिख"

3. As it appears from the FIR, the incident was happened in the morning at about 6.15 a.m. on 28.03.2024 and the FIR was lodged on the same day i.e. on 28.03.2024 at 23:50 hours at P.S. Nanakmatta, District Udham Singh Nagar, wherein 5 persons were named, namely Saravjeet Singh,

Amarjeet Singh, Pritam Singh Sidhu, Harbansh Singh Chugh and Baba Anoop Singh.

4. The said FIR is sought to be quashed by the petitioner with this contention that no specific allegation has been made against the petitioner and even no specific role has been assigned and the allegation as alleged against the petitioner is completely speculative in nature and the role of the petitioner is found to be suspicious and apart from this, there is nothing in the FIR which could be disclosed the role of the petitioner as to how the petitioner is responsible for commission of the crime as alleged in the FIR.

5. In para 5 of the petition, it is submitted that the deceased was killed through fire arm injury by the persons namely Sarvjeet Singh and Amarjeet Singh and as such, admittedly as per the FIR, the gunshot injury was caused by the named persons as aforesaid and the entire incident of shooting has been captured in the CCTV camera in which the aforesaid accused persons are clearly visible in coming and fleeing away from the spot after commission of crime which itself reveals that the petitioner has nothing to do with the crime as alleged in the FIR.

6. It is also submitted that as per the FIR, the involvement of the petitioner appears to be suspicious and therefore he has been implicated with ill intention and ill motive and the petitioner has nothing to do with the entire incident and the complainant is trying to falsely implicate the petitioner.

7. It is also contended in the petition that the petitioner is a retired IAS officer who was unanimously elected as President of the Gurudwara Prabandhak Committee, Nanakmatta Sahib and the certificate of his election was also issued by the Returning Officer on 06.04.2022.

8. It is also submitted and contended in the petition that the petitioner after being unanimously elected as President of the Gurudwara Prabandhak Committee, initiated lots of reformative measures and took positive steps to bring transparency in the functioning of the society since taking over of the charge of President, but such reformative measures were not acceptable to some of the persons who were also looking after the affairs of the Committee prior to taking over the charge by the petitioner in the year 2022 and only because of this reason that the petitioner is named in the FIR only for the purposes to remove the petitioner from the post of President.

9. It is also contended in the petition that the President of Gurudwara Prabandhak Committee, Nanakmatta Sahib has tenure of five years but some ambitious elected members were continuously trying to remove the petitioner from the post before completion of five years term due to the reformative steps taken by the petitioner.

10. It is also contended in the petition that the petitioner has no past criminal history and is not implicated in any offences in the past even he is not convicted for any offences and he has clean antecedents.

11. It is also further contended in the petition that the allegation as alleged in the FIR 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 petitioner.

12. It is also submitted that the entire prosecution story is concocted is an afterthought in order to implicate the petitioner and the petitioner is innocent.

13. It is also contended in the petition that the petitioner is not involved in this crime rather he is a victim being falsely

implicated by the informant with ulterior motive and the petitioner has unblemished record when he was discharging as a public servant in various positions in the State of UP as well as in the State of Uttarakhand and also a District Magistrate when he was posted in Haridwar.

14. It is further contended that the FIR was lodged maliciously with ulterior motive for wreaking vengeance on the petitioner due to private and personal grudge and has been falsely implicated.

15. It is also contended in the petition that the petitioner undertakes to fully cooperate the Investigating Officer during investigation and submits that the petitioner may be given interim protection so that the Investigating Officer may not harass and arrest the petitioner in connection with impugned FIR.

16. A supplementary affidavit is also filed by the petitioner on 08.04.2024 annexing six documents and in the supplementary affidavit in para 4 he has given the details of his induction in government service being a PCS officer in U.P. in which he was inducted in service in 1986 as act as SDM, City Magistrate, Deputy Collector, Deputy Director Mandi Board U.P. Government. It is also submitted that the

petitioner worked with the Government of Uttarakhand from 2011 onwards and in 2012, he was given IAS cadre (IAS 2002 Batch) and served as District Magistrate in Haridwar and also served as Vice Chairman of Haridwar Roorkee Development Authority and at that point of time he successfully carried out Ardh Kumbh Mela in 2016. A further reference is also given that the petitioner also served as Secretary in Government of Uttarakhand holding various important portfolios in department of Forest, Agriculture, Labour and employment, Sports, Administration and Protocol.

17. It is also submitted in the supplementary affidavit that the petitioner, after serving 36 years, retired in the year 2021 as Secretary of Government of Uttarakhand and the petitioner has reputed unblemished service record as civil servant in the State of U.P. as well as in the State of Uttarakhand.

18. It is also submitted that after retirement, the petitioner served as administrative member in Real Estate Appellate Authority.

19. It is also submitted in the supplementary affidavit that the election of Gurudwara Prabandhak Committee of Shri

Nanakmatta Sahib was conducted pursuant to the direction of this Court in a Writ Petition (M/S) No. 2674 of 2021 by order dated 15.12.2021 and thereafter the elections were conducted under the direction and supervision of the Commissioner, Kumaun Division, Nainital and the Local District Administration.

20. On the basis of election conducted by the District Administration, the petitioner was elected as President and took over the charge as President of Gurudwara Prabandhak Committee, Shri Nanakmatta Sahib on 06.04.2022 for a term of five years.

21. It is also submitted in the supplementary affidavit that the petitioner after taking charge of President was focusing on improvement of Gurudwara and tried to regulate the affairs of the Gurudwara and he joined at that point when the entire records of the minutes of meeting of the previous committees were found to be missing and therefore in order to improve the working of the committee making the decisions of the committee transparent, the petitioner introduced "digital minutes preparation" whereby all the directors are issued minutes by WhatsApp and copy of minutes is also uploaded on the website of the Gurudwara.

22. It is also submitted that at that point of time, the financial as well as administrative system of the society was completely disrupted. It is also submitted that the petitioner, after taking over the charge of President of the Society carried out the special audit for the period of five years i.e. for the financial year commencing from 2016 to 2021 which was done in pursuance to the order passed by the District Magistrate and after the special audit report it was found that many serious financial irregularities in the accounting were reflected from the audit report. The said audit report is also brought on record as Annexure 2 to the supplementary affidavit.

23. It is also submitted in the supplementary affidavit that after going through the financial report, the petitioner in order to increase the transparency in the management of the "Cash Donation Box" in the Gurudwara, he for the very first time made a roster system to manage the said system and for that purpose, administrative order was also passed which is also placed on record as Annexure-3 to the supplementary affidavit.

24. It is also submitted that there were in total 14 bank accounts in different banks in the name of Gurudwara Prabandak Committee, Shri Nanakmatta Sahib and in order

to have better control and monitoring the number of accounts were confined to five. A resolution to this effect which was passed in the meeting held on 08.09.2022 is also placed on record as Annexure-4.

25. It is also contended in the supplementary affidavit that the cash in Gurudwara was not regularly deposited in the bank accounts and huge cash always remained at the disposal of the cashier as a result of which the limit of cash to be held by cashier was fixed to Rs. 2.5 lakh and a resolution was also passed in the meeting held on 08.09.2022.

26. It is also contended in the affidavit that the petitioner being President of the Society decided the whole cash for "Kadha Prashad" and donations of devotees be issued by printed coupons and there was no authentic check over number of coupons printed and their genuineness. In order to make the system transparent accountable, the coupon system was replaced by electronic cash machines and electronic printed receipts, in which the operator was required to login with their names which makes them accountable for the cash received by them.

27. In addition to this, it is also submitted that large scale procurement of food items, gas cylinders, firewood, dairy products and edible oils are procured for Langar/community kitchen in the Gurudwara and the special audit observed many observations on procurement procedure. Accordingly the competitive and transparent procurement system was introduced for various large scale purchases from distributors and wholesalers, government undertakings etc. The entire dairy products are now procured from the Anchal and firewood from Uttarakhand Forest Corporation both the being government undertakings.

28. It is also submitted that Gurudwara Prabandhak Committee, Shri Nanakmatta Sahib owns about 700 acre of farming lands and it is not humanely possible to manage such large operations and farming practices to keep watch over various input expenditure like fertilizers, seeds, insecticide, labor etc. and the petitioner tried to reform the farm by introducing lease system and large scale plantation in roster system so that there is minimum day to day miscellaneous expenditures and regular annual income of the institution. But due to non-cooperation of some directors supported by Kar-Seva group, the same could never be implemented. In reference to this, a resolution with regard to taking such steps are also placed on record.

29. It is also submitted that the renewal of the society was pending since long back and after taking over the charge by the petitioner, the renewal was done with special efforts so that the work of Gurudwara be carried out without any hindrance and in accordance with law.

30. It is also contended in the affidavit that due to large scale financial irregularities and indiscipline, the Manager Sardar Ranjeet Singh was placed under suspension on 28.02.2023 after issuing chargesheet but he did not cooperate in the enquiry and no response was filed by him despite several reminders, but he tried to make all possible efforts to reinstate himself as Manager of the Gurudwara by managing the directors in his favour, but subsequently he was dismissed on 16.05.2023, the copy of which is also placed on record as Annexure-6.

31. This writ petition came up before this Court on 03.04.2024 and the State counsel was directed to get instructions in the matter and the matter was posted for 09.04.2024. On 09.04.2024, Mr. V.K. Gemini, learned Deputy Advocate General requested that the matter may be posted for 15.04.2024 since he has not received the instructions. On 15.04.2024, Mr. Amit Bhatt, learned Government Advocate appeared and requested that the

matter may be posted for 16.04.2024. On 16.04.2024, the arguments were advanced by the learned counsel for the parties.

32. Mr. Arvind Vashisth, learned Senior Counsel for the petitioner submits that as per the contents of the FIR, no *prima facie* offence is made out against the petitioner and therefore the impugned FIR is liable to be quashed, qua the present petitioner. He further submits that in the FIR in which the petitioner is implicated, since his involvement is only suspective which itself reveals that no offence is made out against the petitioner.

33. He further submits that the petitioner was working as public servant in the State of U.P. as well as in the State of Uttarakhand and retired as IAS Officer by holding the post of Secretary in Government of Uttarakhand and after retirement, he was also working in RERA and his entire service is unblemished and thereafter he was elected as President of the Society and after taking over the charge, various reformative measures were adopted by him due to which some directors and other persons who were earlier managers were prejudiced with the working of the petitioner and with malafide intention, the petitioner has been implicated and as such on these aspects also, the impugned

FIR is liable to be quashed so far as it relates to the petitioner.

34. Apart from this, Mr. Arvind Vashisth, learned Senior Counsel for the petitioner submits that the petitioner has no criminal antecedents and is ready to cooperate with the investigation, however, interim protection be granted by this Court to the petitioner so that he may not be arrested.

35. During the course of argument, Mr. Arvind Vashisth, learned Senior Counsel for the petitioner placed before this Court a legal notice dated 25.02.2024 written by an Advocate, sent through registered post to the petitioner and this notice was sent by the Advocate on behalf of Baba Tarsem Singh of Dera Kar Seva Shri Nanakmatta Sahib. He submits that just one month's back, the said legal notice was given by an Advocate on behalf of Baba Tarsem Singh with regard to a post published in official Facebook handle of Shri Nanakmatta Sahib under the name of the present President the petitioner which bears the stamp dated 15.02.2024 whereas certain derogatory statements were made against his client. He submits that from this legal notice, it appears that the petitioner has been implicated with some ulterior motive which itself reflects from the contents of this legal notice. Therefore, for adjudicating the issue as raised in this

writ petition, the said legal notice is being reproduced here
as under: -

“REGISTERED/SPEED POST
LEGAL NOTICE

Date: 25.02.2024

To.
Harbans Singh Chugh
President of Gurudwara Prabandhak Committee
Shri Nanak Matta Sahib

Dear Sir.

Under the instructions from and behalf of my client Sh. Baba Tarsem Singh (Dera Kar Sewa Shri Nanak Matta Sahib), I serve upon you this legal notice:-

1. That the addressee is the President of Gurudwara Prabandhak Committee Shri Nanak Matta Sahib and my client is the Jathedar Dera Kar Sewa, Shri Nanak Matta Sahib.
2. That my client Baba Tarsem Singh is a respected member of the society and has been working as Jathedar Dera Kar Sewa Shri Nanak Matta Sahib.
3. That the President published a post on official Facebook handle of Shri Nanakmatta Sahib under his name and stamp dated 15.02.2024 whereby certain derogatory and defaming statements were made against my client.
4. That the President has wrongfully stated defaming statements against my client without any proof or evidences and has posted this post on social media platform and public domain which has been shared by several individuals and it has affected my client's pristine reputation.
5. That the President has been wrongly accusing and defaming my client by leveling false allegations that my client is interfering in the work of the Gurudwara Prabandhak Committee but the fact is that my client is neither a member of the Gurudwara Prabandhak Committee nor does he interfere in the work of Gurudwara Prabandhak Committe,as Dera Kar Sewa and Gurudwara Prabandhak Committee are seperate entities.
6. That the President has leveled bogus and malafide allegations against my client and Dera Kar Sewa for wrongfully acquiring land only to demean and tarnish the reputation of my client and Dera Kar Sewa.
7. That it is a humble request and a warning to the President Mr. Harbans Singh Chugh to kindly remove the posts and publish an apology within 10 days of receiving this letter otherwise he will face serious civil/criminal legal action.
8. Therefore you are hereby required by this legal notice to kindly remove these posts and publish an apology within 10 days from the receipt of this notice, failing which you shall face criminal prosecution before a court of competent jurisdiction. Copy of this notice has been retained in my office for further action.

Your's sincerely

(HARSH VARDHAN
DHANIK)
Advocate

36. Mr. Arvind Vashisth, learned Senior Counsel for the petitioner further placed reliance on certain judgments passed by the coordinate Bench of this Court.

37. The first judgment, which he has placed reliance is the judgment rendered by the coordinate Bench of this Court on 09.07.2020, passed in two C482 Applications being C482 Application No. 1321 of 2019 and C482 Application No. 285 of 2020 and submits that both the C482 Applications were allowed and the order passed for registration of the FIR by the Trial Court while allowing the application under Section 156(3) of CrPC was set aside including all the order passed by the Revisional Court.

38. I perused this judgment and this judgment is on a different context. In this case, an application was moved under Section 156(3) of CrPC without an affidavit and the same was allowed against which a Revision was filed but the same was dismissed and the same were challenged by invoking the powers conferred in an application moved under Section 482 of CrPC on the ground that as per the judgment rendered by the Hon'ble Supreme Court in the case of **Priyanka Srivastava and Another Vs. State of U.P. and others, (2015) 6 SCC 287**, wherein it has been held that

the application under Section 156(3) of CrPC should be supported with an affidavit and non-compliance thereof would result in dismissal of the application and finally, the coordinate Bench of this Court after taking into consideration the law laid down in the case of ***Priyanka Srivastava (supra)***, comes to the conclusion that filing of an affidavit along with the application under Section 156(3) of CrPC is mandatory.

39. Apparently, the issue in these two C482 Applications are entirely different and have no nexus in any manner with the facts of the present case, therefore, it is firmed opinion of this Court that this judgment has no relevance to the issue as raised in this writ petition.

40. Mr. Arvind Vashisth, learned Senior Counsel for the petitioner also referred the judgment rendered by the coordinate Bench of this Court in C482 Application No. 2912 of 2019, *Ajay Verma Vs. State of Uttarakhand and others*, decided on 09.06.2023, wherein the C482 Application was allowed and the chargesheet for the offence punishable under Sections 302, 328, 272, 273, 120-B IPC, Section 62 of the U.P. Excise Act, 1910 and Sections 4, 5, 6(I)(a) of the Poisons Act, 1919 was quashed along with entire proceedings.

41. Mr. Arvind Vashisth, learned Senior Counsel for the petitioner after placing reliance on the judgment submits that the coordinate Bench of this Court after taking into consideration that the *prima facie* case against the petitioner is not made out, quashed the entire proceedings.

42. I have gone through the entire judgment and this judgment is of no help to the petitioner since in this case after lodging of the First Information Report, the investigation was carried and after completion of the investigation, the chargesheet was filed. Since in the present case, the petitioner is questioning the FIR, qua the petitioner with the relief to quash the FIR that too at a very initial stage of the investigation, therefore, this judgment is not at all applicable in the present case.

43. On the other side, on instructions, Mr. Amit Bhatt, learned Government Advocate placed before this Court the CDR of the petitioner who is having mobile No. 7895566600 for the period commencing from 01.03.2023 to 29.03.2024 as well as the CDR of the shooters Saravjeet Singh and the family members of the said shooter and the CDR of another shooter Amarjeet Singh as well as of his family member. I have gone through with these details. Apart from this, the

written instructions were also placed by the learned Government Advocate before this Court dated 14.04.2024 and since the investigation is still going on, therefore there is no purpose to give the details of those instructions since it may likely to affect the investigation.

44. I perused the same, however, one thing is necessary to be mentioned which is based upon the instructions is that the petitioner posts certain messages on social media in order to intense, instigating and hate mongering posts on social media which have been deleted by the petitioner and that suspects the conduct of the petitioner. These instructions reveal that the petitioner used to spread hatred against the Dera Chief Baba Tarsem Singh through various other means/platforms.

45. These instructions further pointed out that during the course of investigation, it has come to the light that two dreaded criminals who opened fire in broad day light at late Baba Tarsem Singh, stayed for nearly 10 days before the incident at Sarai of Shri Nanakmatta Sahib, which is a place under the supervision and overall control of the petitioner and this cannot be a mere coincidence and these two shooters stayed there for 10 days and this aspect is also the part of the investigation which the Investigating Officer is

carrying on about their purpose of stay, who were in touch with them, to whom they have nexus.

46. It is also submitted that these two shooters who were from Punjab are the hardcore criminals, having a long criminal history of brutal and heinous crimes and both of them were stayed comfortably in the Sarai for 10 days but this was not informed to the police.

47. It is also submitted by the Government Advocate that the general convention is that, any outsider person, who stays for more than 2 days need to be reported to the police and even as per the Rules of Sarai, no person is allowed to stay for more than 3 days, therefore, all these aspects that why those two shooters were permitted to stay in the Sarai for 10 days which was under the supervision and control of the petitioner is part of the investigation, therefore, Mr. Amit Bhatt, learned Government Advocate submits that at this stage, the investigation should not be interfered, particularly, when the investigation is at a very initial stage.

48. Mr. Amit Bhatt, learned Government Advocate submits that one of the arrested accused (Amandeep), who provided precise information about the location and exact position of Baba Tarsem Singh to the shooters on the date of incident is

an employee of the society which is headed by the petitioner and therefore, the connection of this fact with regard to the commission of crime of murder is yet to be probed in detail and the investigation is in right perspective which should not be interfered.

49. Apart from this, it is also argued by the learned Government Advocate vehemently that since the investigation is going on in respect of the crime which was committed by two shooters came from another State, who stayed in the Sarai of the Society for 10 days, which was under the supervision and control of the petitioner and at this stage, no interference with the investigation is required otherwise there is a clear possibility of destruction of the evidences maintained and retained in organization headed by the petitioner.

50. It is also submitted by the learned Government Advocate, on instructions, that there are many evidences which indicate that there was a threat of life to late Baba Tarsem Singh and during the course of investigation, the call details (CDR) of various persons including the shooters, who fired to the deceased were examined and there are some links which are verified and ascertained and further

evidences are in process which are the part of the investigation.

51. It is also argued by the learned Government Advocate that the petitioner being retired bureaucrat may use his clouts, contacts and sheer power to interrupt the investigation and thus for a fair investigation and in order to reach the conclusion of the investigation, the FIR should not be quashed.

52. It is also argued that during investigation, various oral, documentary, social media and call detail records related to evidence have come to light which warrant a detailed investigation which also includes the custodial interrogation required in future to bring out the actual truth of this gruesome conspiracy and cold-blooded murder-conspiracy.

53. He further submits that if any protection is given to the petitioner, then the Investigating Officer cannot go with fair investigation and several crucial evidences and links cannot be exposed and brought out. Mr. Amit Bhatt, learned Government Advocate placed reliance on the judgment rendered by the Hon'ble Supreme Court in the Case of **M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others, AIR 2021 SC 1918.**

54. I perused the said judgment which was rendered by the Hon'ble Supreme Court wherein the issue of interim orders passed by different High Courts, in the matter, in which, the relief for quashing the FIR was sought, were dealt with. In this case, the Division Bench of the High Court of Judicature at Bombay, on an application filed by the accused under Article 226 of the Constitution of India read with Section 482 of CrPC, sought prayer for quashing of the criminal proceedings, wherein the High Court directed that "no coercive measures shall be adopted", against the original accused.

55. In **M/s Neeharika Infrastructure Pvt. Ltd.** (supra), the Hon'ble Supreme Court examined the issue with regard to when the High Court could be justified in interfering with the investigation by the police, while exercising the inherent powers under Section 482 of Cr.P.C, and/ or under Article 226 of the Constitution of India, and while examining this issue, previous decision were noticed by the Hon'ble Supreme Court. The first judgment noticed by the Hon'ble Supreme Court is in the case of **State of Bihar vs. J.A.C. Saldanha, (1980) 1 SCC 554**, wherein the Supreme Court, after referring to the precedents, including the decision of the Privy Council in the case of **Khwaja Nazir Ahmad**

(supra), has observed in Paragraph Nos.25 and 26 as under: -

"25. There is a clear-cut and well demarcated sphere of activity in the field of crime detection and crime punishment. Investigation of an offence is the field exclusively reserved for the executive through the police department the superintendence over which vests in the State Government. The executive which is charged with a duty to keep vigilance over law and order situation is obliged to prevent crime and if an offence is alleged to have been committed it is its bounded duty to investigate into the offence and bring the offender to book. Once it investigates and finds an offence having been committed it is its duty to collect evidence for the purpose of proving the offence. Once that is completed and the investigating officer submits report to the court requesting the court to take cognizance of the offence under Section 190 of the Code its duty comes to an end. On a cognizance of the offence being taken by the court the police function of investigation comes to an end subject to the provision contained in Section 173(8), there commences the adjudicatory function of the judiciary to determine whether an offence has been committed and if so, whether by the person or persons charged with the crime by the police in its report to the court, and to award adequate punishment according to law for the offence proved to the satisfaction of the court. There is thus a well defined and well demarcated function in the field of crime detection and its subsequent adjudication between the police and the Magistrate. This had been recognised way back in **King Emperor v. Khwaja Nazir Ahmad [AIR 1944 PC 18 : (1943- 44) 71 IA 203, 213]** where the Privy Council observed as under:

"In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities and it would, as Their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the Court's functions

begin when a charge is preferred before it, and not until then.”

26. This view of the Judicial Committee clearly demarcates the functions of the executive and the judiciary in the field of detection of crime and its subsequent trial and it would appear that the power of the police to investigate into a cognizable offence is ordinarily not to be interfered with by the judiciary.”

56. This Court also examined the issue of quashing of First Information Report in a writ petition, being Writ Petition (Crl) No. 1666 of 2023, preferred under Article 226 of the Constitution of India in the case of **Anoop Aggarwal and Another Vs. State of Uttarakhand and another** in which the judgment was pronounced on 21.12.2023 and this Court dismissed the petition.

57. In this judgment, this Court also examined the scope of quashing of FIR under Article 226 of the Constitution of India and while deciding the issue, this Court also examined the rights and duties of the police to investigate into the cognizable offence. The powers of investigation into cognizable offences are contained in Chapter XII of the Code of Criminal Procedure and the entire Chapter deals with the information to the police in their powers to investigate. Section 154 deals with information in cognizable offence and Section 156 deal with the investigation into such offence and under these provisions the police have the statutory right to investigate into any circumstances of any alleged cognizable

offence. This Court also relied upon the judgment rendered by the Hon'ble Supreme Court, particularly, the landmark judgment which is in the case of **King Emperor Vs. Khwaja Nazir Amad, AIR 1945 PC 18**, wherein it is observed that there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities. It is further observed that "it would be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court. It is further observed in the said case that the functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function.

58. Apart from this, another judgment which was also taken into consideration is the judgment rendered by the Hon'ble Supreme Court in the Case of **Union of India Vs. Prakash P. Hinduja, (2003) 6 SCC 195**, and in Paragraph No.20, the Hon'ble Supreme Court observed and held as under: -

"20. Thus the legal position is absolutely clear and also settled by judicial authorities that the court would not interfere with the investigation or during the course of investigation which would mean from the time of the lodging of the first information report till the submission of the report by the officer in charge of the police station in

court under Section 173(2) CrPC, this field being exclusively reserved for the investigating agency."

59. This Court also dealt with the landmark judgment of Hon'ble Supreme Court in the case of **State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335**, it is observed and held by the Hon'ble Supreme Court that 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 the investigation of offence. It is further observed that in a routine case where information of an offence or offences has been lodged, investigation commenced, search and seizure followed and suspects arrested, the resort to the unusual procedure of oral applications and oral appeals and interim stay order thereon would have the effect of interfering and staying the investigation of offences by the investigating officer performing statutory duty under Cr. P.C.

60. In the case of **State of Orissa vs. Ujjal Kumar Burdhan, (2012) 4 SCC 547**, it is observed and held by the Hon'ble Supreme Court that unless case of gross abuse of power is made out against those in charge of investigation, the High Court should be loath to interfere at early/premature stage of investigation.

61. In the case of **Satvinder Kaur vs. State (Govt. of NCT of Delhi), (1999) 8 SCC 728**, in Paragraph Nos.14 to 16, it is observed and held by the Hon'ble Supreme Court as under: -

"14. Further, the legal position is well settled that if an offence is disclosed the court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed. If the FIR, prima facie, discloses the commission of an offence, the court does not normally stop the investigation, for, to do so would be to trench upon the lawful power of the police to investigate into cognizable offences. [**State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 561 : 1982 SCC (Cri) 283**] It is also settled by a long course of decisions of this Court that for the purpose of exercising its power under Section 482 Cr.P.C. to quash an FIR or a complaint, the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se; it has no jurisdiction to examine the correctness or otherwise of the allegations. [**Pratibha Rani v. Suraj Kumar, (1985) 2 SCC 370, 395 : 1985 SCC (Cri) 180**]

15. Hence, in the present case, the High Court committed a grave error in accepting the contention of the respondent that the investigating officer had no jurisdiction to investigate the matters on the alleged ground that no part of the offence was committed within the territorial jurisdiction of the police station at Delhi. The appreciation of the evidence is the function of the courts when seized of the matter. At the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that the police station officer of a particular police station would not have territorial jurisdiction. In any case, it has to be stated that in view of Section 178(c) of the Criminal Procedure Code, when it is uncertain in which of the several local areas an offence was committed, or where it consists of several acts done in different local areas, the said offence can be enquired into or tried by a court having jurisdiction over any of such local areas. Therefore, to say at the stage of investigation that the SHO, Police Station Paschim Vihar,

New Delhi was not having territorial jurisdiction, is on the face of it, illegal and erroneous. That apart, Section 156(2) contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate. The High Court has completely overlooked the said embargo when it entertained the petition of Respondent 2 on the ground of want of territorial jurisdiction.

16. Lastly, it is required to be reiterated that while exercising the jurisdiction under Section 482 of the Criminal Procedure Code of quashing an investigation, the court should bear in mind what has been observed in the **State of Kerala v. O.C. Kuttan [(1999) 2 SCC 651 : 1999 SCC (Cri) 304 : JT (1999) 1 SC 486]** to the following effect : **(SCC pp. 654-55, para 6)**

“Having said so, the Court gave a note of caution to the effect that the power of quashing the criminal proceedings should be exercised very sparingly 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. It is too well settled that the first information report is only an initiation to move the machinery and to investigate into a cognizable offence and, therefore, while exercising the power and deciding whether the investigation itself should be quashed, utmost care should be taken by the court and at that stage, it is not possible for the court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. In the case of **State of U.P. v. O.P. Sharma [(1996) 7 SCC 705 : 1996 SCC (Cri) 497 : JT (1996) 2 SC 488]** a three-Judge Bench of this Court indicated that the High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent power under Section 482 or under Articles 226 and 227 of the Constitution of India, as the case may be, and allow the law to take its own course. The same view was reiterated by yet another three-Judge Bench of this Court in the case of **Rashmi Kumar v. Mahesh Kumar Bhada [(1997) 2 SCC 397 : 1997 SCC (Cri) 415 : JT (1996) 11 SC 175]** where this Court sounded a word of caution and stated that such power should be sparingly and cautiously exercised only when the court is of the opinion that

otherwise there will be gross miscarriage of justice. The Court had also observed that social stability and order is required to be regulated by proceeding against the offender as it is an offence against society as a whole."

62. In the case of **Supdt. of Police, CBI vs. Tapan Kumar Singh, (2003) 6 SCC 175** and in the case of **State of U.P. vs. Naresh, (2011) 4 SCC 324**, it is observed and held by the Hon'ble Supreme Court that FIR is not an encyclopaedia, which must disclose all facts and details relating to the offence reported. In paragraph 20 in the case of **Tapan Kumar Singh** (supra), it is observed and held as under:

20. It is well settled that a first information report is not an encyclopaedia, which must disclose all facts and details relating to the offence reported. An informant may lodge a report about the commission of an offence though he may not know the name of the victim or his assailant. He may not even know how the occurrence took place. A first informant need not necessarily be an eyewitness so as to be able to disclose in great detail all aspects of the offence committed. What is of significance is that the information given must disclose the commission of a cognizable offence and the information so lodged must provide a basis for the police officer to suspect the commission of a cognizable offence. At this stage it is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. If he has reasons to suspect, on the basis of information received, that a cognizable offence may have been committed, he is bound to record the information and conduct an investigation. At this stage it is also not necessary for him to satisfy himself about the truthfulness of the information. It is only after a complete investigation that he may be able to report on the truthfulness or otherwise of the information. Similarly, even if the information does not furnish all the details he must find out those details in the course of investigation and collect all the

necessary evidence. The information given disclosing the commission of a cognizable offence only sets in motion the investigative machinery, with a view to collect all necessary evidence, and thereafter to take action in accordance with law. The true test is whether the information furnished provides a reason to suspect the commission of an offence, which the police officer concerned is empowered under Section 156 of the Code to investigate. If it does, he has no option but to record the information and proceed to investigate the case either himself or depute any other competent officer to conduct the investigation. The question as to whether the report is true, whether it discloses full details regarding the manner of occurrence, whether the accused is named, and whether there is sufficient evidence to support the allegations are all matters which are alien to the consideration of the question whether the report discloses the commission of a cognizable offence. Even if the information does not give full details regarding these matters, the investigating officer is not absolved of his duty to investigate the case and discover the true facts, if he can."

63. Similar view was also taken by the Hon'ble Supreme Court in the case of **P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24**, wherein it is observed that the investigation of a cognizable offence and the various stages thereon including the interrogation of the accused is exclusively reserved for the investigating agency whose powers are unfettered so long as the investigating officer exercises his investigating powers well within the provisions of the law and the legal bounds.

64. In the recent decision of the Hon'ble Supreme Court in the case of **Skoda Auto Volkswagen India Private**

Limited vs. State of Uttar Pradesh, 2020 SCC OnLine

SC 958, it is observed in Paragraph No.40 as under: -

*"40. It is needless to point out that ever since the decision of the Privy Council in **King Emperor v. Khwaja Nazir Ahmed AIR 1945 PC 18**, the law is well settled that Courts would not thwart any investigation. 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. As cautioned by this Court in **State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335**, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the 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 or in the complaint. In **S.M. Datta v. State of Gujarat (2001) 7 SCC 659** this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In **S.M. Datta** (supra), this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law 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."*

65. Mr. Arvind Vashisth, learned Senior Counsel for the petitioner submits that since the petitioner being a retired IAS Officer, who is holding the post of President in the society is a reputed person and no criminal antecedent and is ready to cooperate with the investigation may be given some interim protection and further he submits that since the FIR does not disclose any offence against the petitioner, this is a fit case for quashing the FIR.

66. These arguments as advanced by Mr. Arvind Vashisth, learned Senior Counsel for the petitioner are not acceptable and thoroughly misconceived in view of the judgment passed by the Hon'ble Supreme Court, a reference of which has been given in the preceding paragraph.

67. Law is very well settled that until and unless a case is made out for quashing of the First Information Report, no interim protection can be given. Apart from this, if such a protection is given during investigation, then to some extent it may interfere with the investigation and in such a situation, particularly when there is a serious crime committed by the two shooters, came from outside the State, stayed in the premises of the Society for 10 days and successfully committed the crime, the Court should not interfere with the investigation. This is not the stage when any opinion should be given about the involvement of the petitioner otherwise it amounts to interfere with the investigation.

68. When the investigation of a cognizable offence is going on and at various stages thereon including the interrogation of the accused is required, is exclusively the domains of the investigating agency and these powers are admittedly

unfettered so long as the Investigating Officer exercises his investigating powers well within the provisions of law.

69. For another aspect, it is also very settled principles of law that FIR is not an encyclopaedia which must disclose all facts and details relating to the offence reported and mere information is sufficient for investigation. So far as the argument of Mr. Arvind Vashisth, learned Senior Counsel for the petitioner that the petitioner was a senior bureaucrat (retired IAS) is concerned, all these arguments are thoroughly misconceived and are not acceptable, particularly, when the investigation is at a pre stage.

70. It is very surprising that the status of the petitioner and his antecedents are taken as a ground for quashing of the FIR. In the entire writ petition including in the supplementary affidavit, there is not a single whisper whether this is a fit case of quashing of FIR. Merely by giving the status of the petitioner that he was a senior bureaucrat, holding key posts in the State of U.P. as well as in the State of Uttarakhand has no relevance at all when the investigating agency is conducting the investigation which is their statutory powers in respect of a crime which appears to be a very serious.

71. It appears from the contents of the writ petition and the supplementary affidavit and the argument that the petitioner is a senior bureaucrat and the senior IAS Officer, therefore his involvement in the crime cannot be presumed at all is outrightly rejected. Even the judgment as relied upon by Mr. Arvind Vashisth, learned Senior Counsel for the petitioner are totally on a different context and have no relevance at all, rather the judgment as placed reliance upon by the State clearly establishes that it is a pre stage to interfere with the investigation by quashing of the First Information Report.

72. Apart from this, Mr. Saurabh Pandey, learned Brief Holder, on instructions, submits that the investigation is in progress and is still going on and during investigation, the CDR as well as CCTV footage are also being verified and furthermore for the investigation the custodial interrogation is necessary, particularly when the incident was caused by the two shooters who came from the State of Punjab and stayed in Sarai for 10 days without informing to the police authorities by the society which was headed by the petitioner being the President, therefore, at this stage, any interference with the investigation is unwarranted.

73. I found substance on the arguments as advanced by, learned Government Advocate and the Brief Holder and hence I do not find any merit in this petition. Consequently, the petition being devoid of merit, is hereby dismissed.

Dt: 10.05.2024
Mahinder/

Rakesh Thapliyal, J.