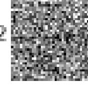


275 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-50025-2023(O&M)
Date of decision: 03.07.2025

Mahabir Parsad ....Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sartej Singh Narula, Advocate
for the petitioner.

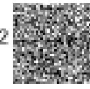
Mr. Harkesh Kumar, AAG, Haryana.

Ms. Neha Rani, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

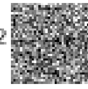
1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.508 dated 16.08.2011 under Sections 332/353/186 of IPC and Sections 166/167/420/467/468/471/120-B of IPC (added later on) registered at Police Station City Hansi (Annexure P-1) along with all consequential proceedings arising therefrom including challan/final report under Section 193 of BNSS (*earlier Section 173 of Cr.P.C.*) dated 17.05.2013 (Annexure P-12).

2. Briefly, the facts, as alleged, are that on 16.08.2011, a truck bearing registration no. HR-61-7452 was stopped for checking at the check post Jind Chowk, Hansi. The truck was checked by the petitioner, then Secretary, Regional Transport Authority, Hisar, and was found to be overloaded. The truck



was taken by Satbir Singh Nain, respondent No.2-complainant, an official of the Transport Office, Hisar, for weighment and thereafter to the police post. However, the same was intercepted on the way by Manoj Kumar Rathi, owner of the truck, who arrived in a Bolero jeep that did not bear a registration number. Manoj Kumar Rathi and his accomplices assaulted respondent No.2. They snatched the truck from him and drove away. This incident led to registration of FIR(supra), at the behest of respondent No.2.

3. Learned counsel for the petitioner *inter alia* contends that during investigation in FIR(supra), the accused, Manoj Kumar Rathi, made a complaint against the petitioner on unsubstantiated allegations of corruption. Exerting undue influence on the Investigating Agency, with the help of then Superintendent of Police, Hisar, he got the petitioner nominated as an accused. Accordingly, offences under Sections 166/167/420/467/468/471/120-B IPC were incorporated in FIR(supra), while Sections 332, 353 and 186 IPC were deleted from it to exonerate Manoj Kumar Rathi. Thereafter, another investigation was transferred to Superintendent of Police, State Crime Branch, who confirmed the complicity of Manoj Kumar Rathi in snatching the seized truck and added Sections 323/353/186 of IPC against him while deleting the abovementioned offences against the petitioner. Furthermore, Manoj Kumar Rathi, vide order dated 08.10.2012, was also denied the concession of anticipatory bail by the learned Additional Sessions Judge, Hisar and it was recorded that evidence on record clearly indicates the complicity of Manoj Kumar Rathi.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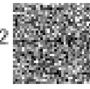
5. He further contends that it is a matter of record that Manoj Rathi was challaned by RTA, Hisar and as per the challan No.18 of challan book No.8354, the truck was shown overloaded with dust. However, Manoj Kumar Rathi moved a representation for cancellation of FIR and approached this Court in CRM-M-4294-2013 seeking directions to decide the same. Under the garb of the orders of this Court and in an attempt to dislodge the findings of the Superintendent of Police, State Crime Branch, the final report under Section 173 Cr.P.C. was filed against the petitioner and his subordinates under Sections 166/167/420/467/468/471/120-B IPC, due to the influence exerted by Manoj Kumar Rathi. Even if the allegation against the petitioner are accepted in its entirety as a gospel truth, the offences under Sections 166/167 of IPC are not made out against the petitioner. Further, at the most, the petitioner and respondent No.2 could be made liable for departmental action and against complainant-Satbir Singh Nain under Section 182 of IPC for lodging a false complaint. However, in a manner completely alien to the established law and prescribed procedure, the petitioner has been nominated as an accused in the final report (Annexure P-12). As such, it is clear that the petitioner has only been wrapped in the present proceedings due to the influence exerted by the accused-Manoj Kumar Rathi to wreck vengeance on him. Therefore, the FIR(supra) deserves to be quashed qua the petitioner. Reliance in this regard is placed on the judgments rendered by the Hon'ble Supreme Court in ***Salib @ Shalu @ Salim vs. Satte of U.P. and others 2023 SCC OnLine SC 947*** and ***State of Haryana and others vs. Ch. Bhajan Lal and others 1992 AIR SC 604.***

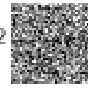


6. Learned counsel representing respondent No.2 submits at the bar that she has clear instructions in this regard and supports the averments made by learned counsel for the petitioner. She further states that she has no objection in case the present petition filed by the petitioner is allowed and the FIR (*supra)* is quashed.

7. Learned State counsel, on the other hand, submits that the complicity of the petitioner was duly established during investigation. The truck in question was challaned on the ground of being overloaded but factually, the vehicle was empty. Further still, the said vehicle was impounded without weighing it and no bill or document was taken into possession by the petitioner either. There is no evidence on record to support the narrative of the petitioner that the vehicle was overloaded at the time of occurrence. As such, the petitioner, in conspiracy with other officials, has deliberately misused their official powers and challaned the empty vehicle by presenting it to be overloaded.

8. In rebuttal, learned counsel for the petitioner submits that a bare perusal of the FIR *(supra)* would clearly indicate that while the truck in question was found overloaded, it was snatched by the person who arrived at the spot in a Bolero Jeep, when it was being taken for weighment. As such, the lack of information on weight of the truck as well as non-procurement of any bill or document stand sufficiently explained.

9. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner has been



nominated as an accused for issuing challan No.18 of challan book No.8354, on incorrect facts i.e. by stating the truck bearing No. HR-61-7452 to be overloaded. Irrespective of the validity of the challan issued by the petitioner, nothing gives Manoj Kumar Rathi and his accomplices the right to snatch the seized truck, especially since they claim it to have been empty. Curiously enough, the challan itself has not been challenged before the appropriate forum under the Motor Vehicles Act, 1988.

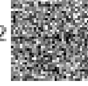
10. The learned trial Court vide order dated 14.06.2012 (Annexure P-7) categorically states that the investigation is being carried out with the single objective i.e. to exonerate Manoj Kumar Rathi. Accordingly, a status report was summoned. Meanwhile, the investigation was transferred to Superintendent of Police, State Crime Branch, Faridabad, who submitted a report dated 18.09.2012 (Annexure P-8). The petitioner was sought to be involved by providing identical affidavits of acquaintances and accomplices of Manoj Kumar Rathi, stating that FIR(supra) has been registered against him because he refused to pay a monthly bribe of Rs.3000/- to the petitioner. A perusal of the affidavits, all dated 12.12.2011 (Annexure P-5 colly) would indicate that they are identical to each other and all the 14 stamp papers were purchased by Manoj Kumar Rathi himself. As far as the statements, all dated 13.12.2011, under Section 161 Cr.P.C. (Annexure P-6 colly) are concerned, there appears to be meddling with the dates by overwriting. Except for these self-serving statements recorded at the behest of accused- Manoj Kumar Rathi, there is nothing available on the record that supports allegations of bribery levied on

the petitioner. A perusal of the report dated 18.09.2012 (Annexure P-8) would also indicate that Manoj Kumar Rathi has admitted to snatching the truck from the custody of the RTA staff. In fact, most of these deponents are transporters who work with the accused and were involved in spite of not being privy to the occurrence. On being questioned qua the same by Superintendent of Police, State Crime Branch, they did not assert the allegations of monthly bribery being demanded by the RTA or any harassment in this regard.

11. Further still, the petitioner has been charged with offences under Sections 166, 167 IPC, which read as follows:

> ***Section 166. Public servant disobeying law, with intent to cause injury to any person.***
>
> *Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.*
>
> ***Section 167. Public servant framing an incorrect document with intent to cause injury.***
>
> *Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

Neither have any specific allegations been levied nor any attempt has been made to satisfy the ingredients of the offences as defined under Sections 166 and 167 IPC. If the petitioner issued the challan for overloading when the truck was empty, the challan can be challenged before the appropriate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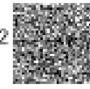
forum. Moreover, the complaint was filed by respondent No.2; in case the same was false, proceedings under Section 182 IPC can be initiated against him. Further still, departmental action could be initiated against the petitioner and respondent No.2 for the alleged misuse of their official powers. This Court is of the considered opinion that criminal prosecution in this regard is unjustified and that the entire narrative against the petitioner has been concocted by Manoj Kumar Rathi to protect himself against criminal prosecution. The undue influence exerted by him on the investigating agency also stands out noticeably. A two Judge bench of the Hon'ble Supreme Court in ***Gulam Mustafa vs. State of Karnataka and another, 2023(3) RCR (Criminal) 182***, speaking through Justice Ahsanuddin Amanullah, made the following observations:

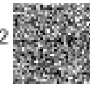
> *"27. This Court, in S.W. Palanitkar vs. State of Bihar, (2002) 1 SCC 24, held:*
>
> > *"... whereas while exercising power under section 482 Cr.P.C., 1973 the High Court has to look at the object and purpose for which such power is conferred on it under the said provision. Exercise of inherent power is available to the High Court to give effect to any order under Cr.P.C., or to prevent abuse of the process of any court or otherwise to secure the ends of justice. This being the position, exercise of power under section 482 Cr.P.C., 1973 should be consistent with the scope and ambit of the same in the light of the decisions aforementioned. In appropriate cases, to prevent judicial process from being an instrument of oppression or harassment in the hands of frustrated or vindictive litigants, exercise of inherent power is not only desirable but necessary also, so that the judicial forum of court may not be allowed to be utilized for any oblique motive. When a person approaches the High Court under section 482 Cr.P.C., 1973 to quash*



the very issue of process, the High Court on the facts and circumstances of a case has to exercise the powers with circumspection as stated above to really serve the purpose and object for which they are conferred."(emphasis supplied)

*28. In **State of Karnataka vs. M. Devendrappa, (2002) 3 SCC 89**, it was decided:*

"6. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such



exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto." (emphasis supplied)

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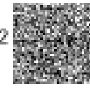
30. The law on the subject was also examined in ***Parbatbhai Aahir v. State of Gujarat, (2017) 9 SCC 641****. In* ***Habib Abdullah Jeelani, (2017) 2 SCC 779****, it was opined:*

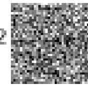
"inherent power in a matter of quashment of FIR has to be exercised sparingly and with caution and when and only when such exercise is justified by the test specifically laid down in the provision itself There is no denial of the fact that the power under section 482 Cr.P.C., 1973 is very wide but it needs no special emphasis to state that conferment of wide power requires the Court to be more cautious. It casts an onerous and more diligent duty on the Court."

12. Further, a two-Judge Bench of the Hon'ble Supreme Court in the case of ***Mahmood Ali vs. State of U.P. 2023 CriLJ 3896*** speaking though Justice J.B. Pardiwala, held as follows:



"12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under section 482 of the Code of Criminal Procedure, 1973 (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under section 482 of the CrPC, 1973 or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged. "

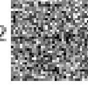
A two-Judge Bench of Hon'ble Supreme Court in the case of S***tate of Andhra Pradesh vs. Golconda Linga Swamy, (2004) 6 SCC 522***, elaborated that only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. Speaking through Justice Arijit Pasayat, the following was opined:



> *"5. ...Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."*

Finally, a two-Judge Bench of Hon'ble Supreme Court in the case of ***Kishan Singh dead through LR's vs. Gurpal Singh, 2010 (3) SCC (Criminal) 1091***, speaking through Justice B.S. Chauhan, held that:

> *"22. In cases where there is a delay in lodging a FIR, the Court has to look for a plausible explanation for such delay. In absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an after thought or had given a coloured version of events. In such cases the court should carefully examine the facts before it for the reason that a frustrated litigant who failed to succeed before the Civil Court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case.*



(vide :Chandrapal Singh & Ors. v. Maharaj Singh & Anr., 1982(2) RCR (Rent) 425;State of Haryana & Ors. v. Ch. Bhajan Lal & Ors., 1991(1) RCR (Criminal) 383;G. Sagar Suri & Anr. v. State of U.P. & Ors., 2000(1) RCR (Criminal) 707; and Gorige Pentaiah v. State of A.P. & Ors., 2008(4) RCR (Criminal) 171 : 2008(5) R.A.J. 254 : (2008) 12 SCC 531."

13. In view of the discussion above, the present petition is allowed. FIR No.508 dated 16.08.2011 under Sections 332/353/186 of IPC and Sections 166/167/420/467/468/471/120-B of IPC (added later on) registered at Police Station City Hansi (Annexure P-1) along with all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

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

(HARPREET SINGH BRAR)
JUDGE

03.07.2025
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No