
(2013) 10 DEL CK 0278

In the Delhi High Court

Case No : Writ Petition (Criminal) 918 of 2012

Bharat Singh and Another

APPELLANT

Vs

State NCT of Delhi and Others

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Arms Act, 1959 — Section 27
Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 155(2), 156(1), 482
Penal Code, 1860 (IPC) — Section 325, 34, 341, 354, 379
Prevention of Corruption Act, 1988 — Section 3, 4

Citation : (2013) 10 DEL CK 0278

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Advocate : A.K. Tripathi, for the Appellant; Pawan Sharma, Standing Counsel, Ms. Priyanka Sharma, for State, Manu Dev, SI and P.S. Sonia Vihar, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sistani, J.—By the present petition, filed under Article 226 of the Constitution of India the petitioners seek quashing of FIR No. 53/2012 dated 22.4.2012 registered under Sections 341/325/506/34 IPC read with Sections 27/54/59 Arms Act, P.S. Sonia Vihar, Delhi, against the petitioners and his family members. The petitioners also seek compensation for the harassment and further a direction to book the real culprits including respondent no. 3, who have hatched a criminal conspiracy to falsely implicate the petitioner and further unnecessary harassment. Notice in this petition was issued. Status report has been filed, as per which the victim had suffered injuries and Bharat Singh, Charat Singh and son of Bharat Singh have caused injuries to the complainant/victim, who was admitted in hospital for four days from 22.4.2012 to 25.4.2012. Details of different cases pending against the petitioners are detailed in the status report. As per the status report, the present petition has been filed as a

counterblast to the FIR No. 53/12 dated 22.04.2012 registered under Sections 341/325/34 IPC read with Sections 27/54/59 Arms Act at P.S. Sonia Vihar, Delhi, on the statement of one Rupender. In this case, Bharat Singh, Charat Singh and son of Bharat Singh are the accused persons and they caused injuries to the complainant/victim, who was admitted in the hospital for four days w.e.f. 22.4.2012 to 25.4.2012. The present writ petition has been filed in order to put pressure on the opposite side, so that the complainant may not proceed against them. In the status report details of cases, in which the petitioners, Bharat Singh, and Charat Singh, have been involved, have been given. Petitioner no. 1, Bharat Singh, is involved in the following cases:

1. FIR No-94/92 Dt.-04/03/1992 U/S. 452/34 IPC, P.S. Gokal Puri, Delhi.
2. FIR No-114/92 Dt.-16/03/92 U/S. 354/506/34 IPC, P.S. Gokal Puri, Delhi.

Note:-convicted U/S. 354/506 IPC fine Rs. 4000 + 3000 on 21/02/2000 by the Court of Ms. Bimla Kumari, MM.

3. FIR No-330/99 Dt.-07/10/99 U/S. 3/4, Prevention of damage to Public Property Act, P.S. Khajuri Khas, Delhi.
4. FIR No-50/2001 Dt.-16/03/2001 U/S. 420/379/506/34 IPC, P.S. Khajuri Khas, Delhi.
5. FIR No-53/12 Dt.-22/04/12 U/S. 341/325/34 IPC & 27/54/59 ARMS ACT, P.S. SONIA VIHAR, DELHI.

2. Petitioner no. 2, Charat Singh is involved in the following cases:

1. FIR No. 114/92 Dt.-16/3/92 U/S. 354/506/34 IPC, P.S. Gokal Puri Delhi.
2. FIR No-53/12 Dt.-22/4/12 v. 341/325/34 IPC & 27/54/59 ARMS ACT, P.S. SONIA VIHAR, DELHI.

3. Learned standing counsel for the State has strongly urged before this Court that the present petition raises disputed questions of fact, the petition is premature and the same can only be decided during the trial of case FIR No. 53/12 dated 22.4.2012 under sections 341/325/34 IPC and 27/54/59 Arms Act, P.S. Sonia Vihar, Delhi. Standing counsel further submits that the investigation is still pending with local police of P.S. Sonia Vihar, Delhi. Standing counsel next contends that investigation has revealed that on 22.4.2012 vide DD No. 12A at 4.18 pm an information was received through PCR regarding a quarrel. On the said information HC Krishan Pal and Constable Virender of P.S. Sonia Vihar went to verify the facts. On reaching the spot, they learnt that the injured was already taken to G.T.B. Hospital, Delhi, by a PCR Van. On reaching the hospital, they found that the injured, Rupender, s/o Sh. Ram Chander, r/o G-5, Main Road, near Madina Masjid, Sonia Vihar, Delhi, was admitted in the hospital. The injured in his statement stated that he was working in the office of Hans Raj Property Dealer at Kaushal Puri, Chauhan Parti, Delhi. On the said day, he was present in his office and at about 3.30 p.m. he noticed that some persons were engaged in

installation of bricks at the plot of his employer. He told them not to do so and thereafter he returned to his office. At about 4.00 p.m. petitioners and son of petitioner no. 1, who were possessing swords, came to his office, mercilessly beaten him including by using the sword and also threatened him. The injured was taken to G.T.B. Hospital by a PCR Van and got admitted in the hospital. On his statement, FIR No. 53/2012 dated 22.4.2012 under sections 341/325/34 IPC and 27/54/59 Arms Act, was registered at P.S. Sonia Vihar, Delhi.

4. It is also pointed out by Mr. Sharma, standing counsel for the State, that the injured was alone while the petitioners were three persons; the injured, Rupender, sustained five injuries over his body and was admitted for four days in Government Hospital w.e.f. 22.4.2012 to 25.4.2012 and thereafter he was treated from a Private Hospital, namely, Mavi Nursing Home and eye hospital, Indrapuri, Extension, near Shanti Nagar Bus Stand, Loni, Ghaziabad, U.P.; and the petitioners have not sustained any injury.

5. I have heard learned counsel for the parties. The law with regard to quashing of FIR is well-settled. The High Court has inherent power under Article 226 of the Constitution of India read with Section 482 Cr.P.C. to interfere in the proceedings relating to cognizable offences to prevent abuse of the process of any Court or to secure the ends of justice. The Apex Court has cautioned that this power should be exercised sparingly and in rarest of rare cases.

6. In the case of State of Haryana and others Vs. Ch. Bhajan Lal and others, , the Apex Court has laid down the following guidelines:

- 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 F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers u/s 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 u/s 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.

On perusal of the FIR, it cannot be said that the allegations made in the FIR do not constitute any offence. Neither the allegations are absurd nor inherently improbable in view of the statements recorded and the MLC. Accordingly, present petition is without any merit and the same dismissed, however, it is made clear that any observations made in the order passed today are only for the purpose of deciding this petition.