

(2021) 04 SHI CK 0084
In the High Court Of Himachal Pradesh
Case No : CR. MMO NO.181 Of 2021

Kuljit Kaur @ Shallu

APPELLANT

Vs

State Of Himachal Pradesh & Others

RESPONDENT

Date of Decision : 08-04-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Code Of Criminal Procedure, 1973 — Section 155(2), 156(1), 482

Citation : (2021) 04 SHI CK 0084

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Dalip K. Sharma, Dinesh Thakur, Sanjeev Sood, Divya Sood, Kamal Kant Chandel

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this petition, filed under Section 482 of the Criminal Procedure Code, the petitioner has prayed for the following relief:-

"It is, therefore, respectfully prayed that the present petition may kindly be allowed and the impugned FIR No.63 of 2020, dated 07.12.2020 (Annexure P1) and subsequent proceedings/ trial against the petitioner may kindly be set aside and quashed in the interest of law & justice."

2. Petitioner is praying for quashing of FIR No.63 of 2020, dated 07.12.2020, registered at Police Station Chintpurni, District Una, H.P., copy of which is appended with the petition as Annexure P-1, wherein the allegations which have been levelled against the accused therein, including present petitioner are that the wife of the complainant was sexually abused by one Narender Kumar and thereafter, blackmailed by Narender Kumar as well as by present petitioner, who extracted hefty amount of Rs.20,00,000/- to 22,00,000/- from her. According to the complainant, these facts were disclosed to him by his wife on 11.11.2020,

which led to the registration of present F.I.R. It also stands mentioned in the F.I.R. that the wife of the complainant was undergoing treatment at P.G.I., Chandigarh, on account of some mental illness. It is also stated in the F.I.R. that certain pictures of the wife of the complainant in a compromising position with Narender Kumar were taken, which were later on abused by the accused for the purpose of extracting money. It is on these basis, that the F.I.R. has been registered.

3. Learned counsel for the petitioner while laying stress on Annexure P-2, has argued that as the agreement has been entered into between one of the accused Narender Kumar with the complainant and in the said agreement, name of the petitioner has not been spelled out. This demonstrates that the petitioner is not guilty of the offences alleged against her and therefore, the F.I.R. be quashed. Learned counsel for the petitioner has argued that the F.I.R. has been wrongly registered at Police Station Chintpurni, District Una, H.P., as the offences purportedly do not take place in the territorial jurisdiction of the said Police Station.

4. The petition is opposed by learned Additional Advocate General, who submits that the offences alleged against the petitioner are grave, which are being investigated by the Investigating Agency and this is not a fit case, wherein this Court should exercise discretion conferred upon it for quashing of the F.I.R., filed under Section 482 of the Criminal Procedure Code.

5. I have heard learned counsel for the petitioner as well as learned Additional Advocate General. This Court is of the view that this petition deserves dismissal in limini.

6. The parameters, in which, in exercise of powers conferred under Section 482 of the Criminal Procedure Code, the F.I.R. can be quashed, are well spelled out in many judgments of Hon'ble Supreme Court of India and one of the leading judgments is State of Haryana and others Versus Chaudhary Bhajan Lal and others AIR 1992 Supreme Court 604, in which Hon'ble Supreme Court has been pleased to hold as under: -

"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 channelized and inflexible guidelines or rigid formulate 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 F.I.R. 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 F.I.R. do not constitute a cognizable offence but constitute only a con-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 malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spit him due to private and personal grudge."

Thereafter, Hon'ble Supreme Court has reiterated these principles, in (2017) 9 Supreme Court Cases 641 titled as Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others Versus State of Gujarat and Another.

7. Coming to the facts of present case, it cannot be said that allegations in the F.I.R. do not disclose a cognizable offence or even if, the uncontroverted allegations made in the F.I.R. are taken as they are, no commission of any offence can be said to have been done by the accused. It can also not be said on the basis of contents of the F.I.R. that the complaint is absurd or inherently improbable or that is a result of malafide or the F.I.R. has been maliciously instituted.

8. Therefore, at this stage, this Court cannot exercise its power under Section 482 of the Criminal Procedure Code, for the purpose of quashing the F.I.R. in issue. The veracity of the contents of the F.I.R. is a matter of investigation and this Court has no reason not to believe that the Investigating Agency shall carry out investigation in a fair manner. In case, investigation reveals that the allegations leveled in the F.I.R. are incorrect, then appropriate report in this

regard, but obvious shall be submitted by the Investigating Agency before the Court concerned, which shall take an appropriate call upon the same. Not only this, the aspect of the F.I.R. purportedly having been registered at a Police Station, other than, within territorial limits of which alleged offence allegedly took place, obviously will be looked into by the Court below, once report is submitted before it by the Agency concerned.

9. Accordingly, as this Court does not finds any merit in the present petition, the same is, therefore, dismissed, however, with the observation that the findings which have been returned by this Court in the present petition, are only for the purpose of adjudication of this petition and the course of investigation or the learned Court below shall not be influenced by the same. Petition stands disposed of, so also pending miscellaneous applications, if any.