

(2021) 02 J&K CK 0059

In the Jammu And Kashmir High Court

Case No : Miscellaneous Criminal Cases No. 200 Of 2020, Criminal Miscellaneous No. 690, 692, 1789 Of 2020

Mohd Aslam

APPELLANT

Vs

Ut Of Jammu And Kashmir And Ors

RESPONDENT

Date of Decision : 24-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code Act 1860 — Section 354, 354A, 354D

Citation : (2021) 02 J&K CK 0059

Hon'ble Judges : SANJEEV KUMAR, J

Bench : Single Bench

Advocate : M.I.Sherkhan, Jamrodh Singh

Final Decision : Disposed Of

Judgement

1 Present petition has been preferred by the petitioner under Section 482 Cr.P.C for quashing of FIR No. 59/2020 registered with Police Station,

Mahore against the petitioner/accused for commission of offences under sections 354/354-A & 354-D IPC and the proceedings emanating therefrom.

2 The brief facts of the case, leading to the filing of this petition, are that a written complaint had been filed by the complainant i.e. Zahida Iqbal wife

of Shakeel Ahmed, Anganwadi Worker before the police of Police Station, Mahore to the effect that the petitioner/accused had been continuously

harassing her on one or the other pretext and, in fact, he was actually demanding a sexual favour from her. The petitioner/accused did not stop here

and started calling her to his office without any written order to seek explanation on account of various concocted and fabricated allegations of

embezzlement and subsequently the Department engaged new Anganwadi worker in her place. The complainant brought the matter to the notice of

Directorate of Women and Child Development and filed a complaint also before it and thereafter a full dressed enquiry came to be initiated by the

Directorate of Women and Child Development and Department. After waiting long for the outcome of the enquiry, she finally approached the Police

Station, Mahore and lodged the impugned FIR.

3 The petitioner has challenged the impugned FIR on the ground that he has been falsely implicated in the present case. It is submitted that the

impugned FIR has been lodged malafidely with ulterior motive to wreck vengeance against the petitioner in order to put pressure on him not to

disengage the complainant. It is further submitted that the allegations made in the FIR even, if they are taken at their face value and accepted in their

entirety, do not prima facie make out a case against the petitioner and that the criminal proceedings initiated against the petitioner are manifestly mala

fide in nature.

4 On the basis of aforesaid submissions, learned counsel for the petitioner submits that registration of FIR and continuance of criminal proceedings

against the petitioner would amount to an abuse of the process of law. He, therefore, prays that the impugned FIR and the consequent proceedings

against the petitioner may be quashed.

5 Objections/status report on behalf of respondent Nos. 1 to 6 have been filed. In their objections/ status report, it has been mentioned that the

impugned FIR has been registered on the basis of a complaint filed by the complainant Zahida Iqbal wife of Shakeel Ahmed, respondent No.7 herein

and that during the investigation, it came to fore that the petitioner/accused had not only harassed and molest the complainant, but also tried to sexually

exploit and molest other ladies. It is further stated in the status report that the investigation of the case is complete. Mr. Jamroth Singh, learned

counsel for the official respondents informs this Court that the chargesheet stands filed in the competent Court of law. He, therefore prays for

dismissal of the petition.

6 Having heard learned counsel for the parties and perused the record of the case, I find that this is not a fit case for this Court to intervene and to

quash the impugned F.I.R as also the subsequent proceedings emanating therefrom.

7 It is well settled that the High Court ordinarily would exercise its jurisdiction

under Section 482 of Cr.P.C if the allegations made in the FIR, even if taken at their face value and accepted in their entirety do not, prima facie, constitute any offence. It is also equally settled that the High would not embark upon an inquiry and adjudge as to whether the evidence is reliable or not. This is the function of the trial Court. The powers of quashing criminal proceedings must be exercised very sparingly and that too in the rarest of rare cases.

8 From a perusal of the status report filed by the respondents, it appears that during investigation, it has come to fore that the petitioner/accused has not only harassed and molested the complainant herein but also tried to sexually exploit and molest other ladies. It has also come to fore that on account of various complaints against the petitioner, Additional DC, Reasi also recommended his name in the deadwood scanner.

9 Admittedly, the investigation in the case is complete. The chargesheet stands filed in the competent Court of law and on the basis of evidence, the charges are substantiated against the petitioner/accused. Thus, a reading of the F.I.R and the allegations contained therein do not make out a case for this Court to quash the impugned FIR and the consequent proceedings that have emanated from the said FIR.

10 In the light of the above discussion, I find no merit in this petition. Accordingly, the same along with connected CMs, is dismissed.

11 It is, however, made clear that the observations made in this order shall not influence the trial Court, in any manner, in disposing of the challan on its merits and this order is confined only with regard to deciding the present petition.