

(2025) 02 DEL CK 1068

In the Delhi High Court

Case No : Crl.M.C. No. 2956 Of 2021 & Crl.M.A. 29453 Of 2024

Ms. N S

APPELLANT

Vs

State And Anr

RESPONDENT

Date of Decision : 03-02-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 164, 482
Indian Penal Code, 1860 — Section 354(B), 451, 509

Citation : (2025) 02 DEL CK 1068

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Anu Narula, Shoaib Haider, Puneet Mittal, Rajendra Pratap Singh, Sakshi Mendiratta

Final Decision : Dismissed

Judgement

Neena Bansal Krishna, J.

1. The present Petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C., 1973") has been filed on behalf of the Petitioner to quash the FIR No. 494/2021 dated 18.08.2021 under Sections 354(B)/451/509 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC, 1860").

2. Facts in brief are that the Petitioner had visited the house of her Bua, Smt. Chander Prabha at her residence at P-3, 2nd Floor, Malviya Nagar, Delhi on 11.08.2021, where she resides with her family, to discuss certain family issues. While the Petitioner was sitting and having her discussion and trying to amicably solve the ongoing family disputes relating to property between her parental family and Bua etc., Smt. Deepika Seth got aggressive and violent with the Petitioner and snatched her phone. She held her hair, slapped her and gave her beatings. Instead of restraining and stopping her daughter, Smt. Chander Prabha along with her husband S.P. Chohdha and maid, also joined her. They forcibly tried to lock her in a room, but eventually did not do so as the Petitioner's Aunty

remarked that if they would lock her in a room, she may break things inside. They all were so violent that they banged the Petitioner's forehead on wall by pulling her hair. They pushed her on the bed and sat on the Petitioner for 15-20 minutes and told the maid to twist the Petitioner's fingers. She herself scratched the Petitioner on her neck.

3. S.P. Chohdha slapped the Petitioner on her face and helped the other culprits and specially called Saurabh Chohdha i.e., the cousin of Petitioner and son of Chander Prabha who pulled the Petitioner by her breast to make her get up from the bed. He touched her private parts and made unwanted sexual advances. When the Petitioner pushed him back and tried to move out of the room, then Saurabh, Deepika Seth and the maid threw her out of the flat by lifting her. They kept her bag inside and returned her phone by throwing it in the lobby.

4. It is submitted that the Petitioner then called the PCR and the Police took her to the hospital for her treatment on 11.08.2021. However, the FIR was not registered on the same day. It is only when the Petitioner called the Police on the next date i.e., 12.08.2021 to enquire about the complaint, she was asked by the Police to make a fresh complaint and was forced to mention that on 11th after treatment, she went back home. To add to her agony, the Police did not register the FIR until 18.08.2021. In the meanwhile, they exerted all possible pressure on the Petitioner to compromise the matter with the accused persons. However, when she did not yield to the pressure, the Police in connivance with the Accused also lodged a counter FIR No. 494/2021 against her which is only an outcome of collusion, instigation and active malice between the accused persons and the Police.

5. It is further submitted that the Petitioner gave her complaint on 11.08.2021 and 12.08.2021 but the FIR No. 493/2021 was registered only on 18.08.2021, on which date the Counter FIR No. 494/2021 has been registered against her on the allegations that she had trespassed into their house and of having given beatings and wrongful restraint.

6. The Petitioner has sought the quashing of the present FIR on the grounds that the Respondent No. 2 and her family members were relying on numerous calls made by the Petitioner to her Bua, to visit her house, which she had made only to visit her for amicable settlement of property dispute interse the family members.

7. Further, it is evident from the perusal of the present FIR No. 494/2021, that the Respondent No. 2 had acquaintance with certain Police Officials of Kalkaji Police Station and the FIR is an outcome of unwarranted Police pressure and influence. The version of the Respondent No. 2 of making various allegations against the Petitioner are totally not believable or probable as the Petitioner was the lone lady who had gone to the house of the Respondent No. 2, Bua and that she could not have indulged in commission of offences under Sections 354(B), 451 and 509 of IPC, 1860. The house of the Respondent No. 2 is full of people

and that there were at least 5-6 persons in the house, including two male persons. It is unthinkable that the Petitioner, who is a frail woman of 50 years, would assault Respondent No. 2 and outrage her modesty as claimed, while there were a battery of persons for her protection.

8. It is evident from the plain reading of the FIR that no offences are disclosed against the Petitioner. The FIR No. 494/2021 is a counter-blast and has been filed for creating a pressure on the Petitioner and may be quashed.

9. The Petitioner in support of her assertions has contended that the malice and undue influence of the Respondent No. 2 on the Police Officials is manifest from the fact that though the MLC of the Petitioner has been filed in Challan, but no Doctor has been cited as a witness.

10. Moreover, the Statement of the Petitioner under Section 164 of Cr.P.C., 1973 has been maliciously not attached along with the Chargesheet. The Petitioner in her Statement under Section 164 of Cr.P.C., 1973, she had clearly told the learned Metropolitan Magistrate that there was an attempt to kill her.

11. Furthermore, there is no cogent reason given not to include Chander Prabha, S.P. Chohdha and maid as accused persons in the Challan.

12. Also, no Closure Report in the FIR No. 494/2021 has been filed against the Respondent No. 2 and Saurabh in FIR No. 493/2021. This itself shows that the FIR against the Petitioner is kept alive to exert pressure on her and the investigations are purposely conducted in a shoddy manner to give mileage to the other side and cause disadvantage to the Petitioner.

13. The Petitioner has placed reliance on the decisions in State of Haryana and Ors. vs. Bhajan Lal & Ors., Supp (1) SCC 335 wherein the Apex Court laid down the guidelines for exercise of power of quashing of FIR under Section 482 of Cr.P.C. Reliance was also placed on Musstt Rehana Begum vs. State of Assam & Ors. Criminal Appeal No. 118/2022 decided by the Apex Court on 21.01.2022 wherein the Apex court reaffirmed the guidelines in Bhajan Lal (supra).

14. The Status Report has been filed on behalf of the State, wherein the contents of the FIR have been reiterated.

15. It is further stated that during the course of investigations, the statement of the Complainant under Section 164 of Cr.P.C., 1973 and of the other witnesses were recorded and the evidence collected. The Chargesheet has been filed before the learned Metropolitan Magistrate.

16. Submissions Heard and record perused.

17. As per the averments of the Petitioner herself, the Respondent No. 2/ Complainant has made specific allegations of assault, beating and outraging the modesty and of threats, for which the Complaint has been duly investigated and the Chargesheet has been filed before the Trial Court.

18. The quashing of the present FIR has been sought on the ground that there is a cross-FIR registered in regard to the same incident. However, it is the Counter Claims of the Petitioner and Respondent No. 2/Complainant in their respective cases that they were sexually assaulted, beaten, manhandled and wrongfully restrained.

19. It is evident that in a free fight which took place on the day of incident, both the parties may have their own version of offence committed against each other. Merely because there is a cross FIR, it cannot be a sole ground for quashing the FIR.

20. Insofar as the malice and connivance of the Respondent No. 2/Complainant with the Police Officials are concerned, that in itself cannot be a ground to quash the FIR in the light of the specific allegations made in the Complaint.

21. It has also been argued that the investigation has been done in a shoddy manner to give benefit to the accused persons, but essentially it is a fight which took place between the parties and essentially, the evidence is oral statements of the parties.

22. So far as non-citing of the Doctor as a witness is concerned, that in itself can be of no consequence as the material witness can be summoned at any time. Likewise, the Statement under Section 164 of Cr.P.C., 1973 which is generally filed in the Office of CJM, can also be summoned during the trial.

23. Another ground taken by the Petitioner is that there was a delay in registration of FIR, though the Complaint was made by her on 11.08.2021, but she was made to write the same on 12.08.2021. Also, that after treatment on 11.08.2021, she had gone back to her house and the Complaint made on 12.08.2021, and consequently, the FIR has been registered against the Respondent No. 2 only after the cross FIR No. 493/2021 was registered against her.

24. These aspects can be considered only during the trial and cannot be the basis for the quashing of present FIR.

25. On the Complaint made by the Respondent No. 2, the investigations have been conducted and the Chargesheet has been filed.

26. There are no grounds made out for quashing of FIR. Accordingly, the present Petition along with pending Application is hereby dismissed.

27. It is, however, stated that the observations made hereinabove are confined to the present Petition and are an expression on the merits of the case.