

(2021) 01 SHI CK 0241
In the High Court Of Himachal Pradesh
Case No : CR. MMO No.05 Of 2021

O.P. Chauhan

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 15-01-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 143, 188

Citation : (2021) 01 SHI CK 0241

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Shikha Chauhan, Ashok Sharma, Ranjan Sharma, Adarsh Sharma,
Vinod Thakur, Sanjeev Sood, Kunal Thakur

Final Decision : Allowed

Judgement

Ajay Mohan Goel, J

1. By way of this petition, the petitioner has prayed for the following relief:-

It is, therefore, most respectfully prayed that the present petition may kindly be allowed and Annexure P-1, FIR No.0155 of 2019, dated

24.7.2019, registered U/Ss 143 and 188 of IPC, in Police Station Sadar, Shimla, H.P. and all subsequent proceedings arising out of this FIR, may kindly

be quashed and set aside.

2. Brief facts necessary for the adjudication of the present petition are as under:-

The case of the petitioner is that in the First Information Report (FIR), bearing FIR No.0155 of 2019, dated 24.7.2019, registered U/Ss 143 and 188 of

IPC, in Police Station Sadar, Shimla, H.P., copy of which stands appended with the petition, the petitioner purportedly has been falsely implicated.

3. According to the petitioner, the FIR is manipulated by the police. Petitioner neither happened to be the representative of the Lawyers of Shimla Bar

Association nor he lead any protest on the date mentioned in the FIR, nor he was involved in the allegations which stand mentioned therein.

Accordingly, a prayer has been made for quashing of the FIR, inter alia, on the ground that similar FIRs, which were registered against the persons

similarly situated as the petitioner, have been quashed by the Court in exercise of powers vested under Section 482 of the Criminal Procedure Code.

4. I have heard learned counsel for the parties and have gone through the averments made in the petition.

5. It is not in dispute that this Court in Cr.MMO No.306 of 2020, titled as Ms. Anu Tuli Azta Versus State of Himachal Pradesh & another, decided

on 05.11.2020, while dealing with prayer similar to that made by the petitioner in this case, has allowed the same by quashing the FIR so registered.

6. During the course of arguments, the factum of similar petitions filed by other Lawyers having been allowed by this Court could not be disputed by

learned Additional Advocate General.

7. In this view of the matter, this petition is allowed and is disposed of by quashing FIR No.0155 of 2019, dated 24.7.2019, registered U/Ss 143 and

188 of IPC, in Police Station Sadar, Shimla, H.P., in view of the reasoning, which stands returned by this Court in Cr.MMO No.306 of 2020 (supra),

relevant portion of which is quoted hereinbelow:-

â??According to the petitioner, the protest was a collective one and a peaceful one wherein there was no use of any violation or force. Yet, the

respondents have lodged the F.I.R. against the petitioner though the petitioner is not guilty of committing any offence mentioned in the F.I.R. As per

the petitioner, the F.I.R. is false, fabricated and is concocted, just to scuttle the agitation which stood undertaken by the Lawyers for a common cause

and accordingly, a prayer has been made for quashing of the same by invoking the inherent jurisdiction of this Court under Section 482 of the Criminal

Procedure Code.

4. Learned counsel for the petitioner has drawn the attention of this Court to the judgment passed by a Coordinate Bench of this Court in Cr.MMO

No.51 of 2020, titled as Rajiv Jiwan Versus State of Himachal Pradesh., decided on 24.01.2020 and on the strength of the same, she has argued that

as the F.I.R. which was the subject matter of the above mentioned Cr.MMO (Cr.MMO No.51 of 2020), was also registered against the petitioner

therein during the same agitation, therefore, this petition be allowed on the same principles as were adopted by the Coordinate Bench, while allowing

the Cr.MMO No.51 of 2020 (supra) and quashing the F.I.R. subject matter on the said petition.

5. Learned Additional Advocate General could not dispute that the F.I.R. subject matter of Cr.MMO No.51 of 2020 stood quashed by this Court and

that the same was also registered against the petitioner herein during the course of the same agitation and that the judgment passed by the Coordinate

Bench has attained finality.

6. In this view of the matter, without going into any further narration of facts or controversy involved in this petition, as it is not in dispute that similar

F.I.R. lodged against other members of the Bar stands quashed by this Court, accordingly, this petition is allowed and F.I.R. No.155 of 2019, dated

24.07.2019, registered under Sections 143, 188 of the Indian Penal Code, at Police Station Sadar, District Shimla, H.P., stands quashed in view of the

judgment of the Coordinate Bench in Cr.MMO No.51 of 2020, as well as the reasonings assigned therein. The petition stands disposed of. Pending

miscellaneous applications, if any, also stand disposed of.â??

Pending miscellaneous applications, if any, stand disposed of.