
(2012) 02 DEL CK 0168
In the Delhi High Court
Case No : Criminal M.C. 2116 of 2009

Satpal Batra

APPELLANT

Vs

State NCT of Delhi and Others

RESPONDENT

Date of Decision : 10-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0168

Hon'ble Judges : M.L. Mehta, J

Bench : Single Bench

Advocate : Govind Kaushik, for the Appellant; Fizani Husain, APP with Inspector Pravin Kumar, P.S. Dabri, for the Respondent

Final Decision : Dismissed

Judgement

M.L. Mehta, J.—This is a petition u/s 482 Cr.P.C. for quashing of criminal proceeding arising out of FIR No. 350/2000, registered at P.S. Dabri u/s 506/507 IPC.

2. The said FIR was registered at the instance of complainant Swaran Singh on 06.04.2000 stating that the petitioner who was his tenant in shop at B-6, H.No. 453, Railway Road, Kotkapuna, Farid Kot, Punjab had threatened him in January 2000 that he should forget about the shop and not even come close to it. It was further stated by the complainant that on 03.04.2000 he had received a letter from the petitioner warning him of dire consequences. The complaint was made to SI Neeraj Chaudhary who recorded the statement of witnesses on 08.04.2000. The petitioner was then arrested from his residence at Kotkapura and was released on bail after 15 days.

3. Thereafter a complaint was filed by the petitioner to the ACP, Anti Corruption Branch stating that he had been falsely implicated in the case. An investigation was conducted by ACP, D.C. Yadav against the SHO, SI and constable of P.S. Dabri. Final report dated 1.6.2000 was filed by the ACP exonerating the petitioner.

4. Meanwhile a police report dated 5.7.2000 u/s 173 Cr.P.C. was filed by the IO

in the case before the Ld. MM, wherein the Ld. MM framed charges against the petitioner in Misc. Complaint No. 28/2000.

5. The main contention of the counsel for the petitioner is that the Ld. MM has overlooked the report of ACP, Anti Corruption Branch while framing charges against the petitioner wherein he had been cleared of all the charges and irregularities were found in the proceeding carried out by the I.O. and S.I. in the case.

6. I have heard the learned counsel for the petitioner and the State and perused the record.

7. The entire thrust of the counsel for the petitioner is on the investigation report filed by the ACP, Anti Corruption Branch, wherein it was stated that the petitioner has been falsely implicated in the case. But, it must be noted here that at that point of time, the report of the FSL examining the hand writing of the petitioner was not available with the ACP. The specimens of the petitioner's handwriting on the threatening letter to the complainant were sent to FSL, Malviya Nagar for examination. The FSL report states that the handwriting of threatening letter and specimen handwriting of the petitioner are of the same person. In view of this development, I do not think it is a case that the prosecution case can be outrightly thrown out at its inception. The report of FSL clearly indicates the prima facie involvement of the petitioner in the case.

8. The submission of the petitioner that the charges were framed by the Ld. MM without application of mind does not seem to be correct. It is trite that at the stage of framing of charges, the meticulous consideration of evidence and the material on record is not required if the same on the face of it makes out the offence committed by the accused person. It was not to be seen as to whether the said material would ultimately result in conviction or not. The material which was enough to raise grave suspicion about the commission of offences against the accused person was enough for framing of charges against him. This does not seem to be a case where the Magistrate has passed a mechanical order without appreciation of the facts and evidence on record.

9. So far as the scope and ambit of the powers of the High Court u/s 482 of the Code is concerned, the same has been enunciated and reiterated by this Court in a catena of decisions and illustrative circumstances under which the High Court can exercise jurisdiction in quashing proceedings have been enumerated. It would suffice to state that though the powers possessed by the High Court under the said provisions are very wide, but these should be exercised in appropriate cases, *ex debito justitiae* to do real and substantial justice for the administration of which alone the Courts exist. The inherent powers possessed by the High Court are to be exercised very carefully and with great caution so that a legitimate prosecution is not stifled. The power of this court u/s 482 Cr.P.C. can be noted in the words of Supreme Court in the case of *State of A.P. Vs. Gourishetty Mahesh and Others*, , which reads thus:

(12) While exercising jurisdiction u/s 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge/Court. It is true that Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, otherwise, it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time, Section 482 is not an instrument handed over to an accused to short-circuit a prosecution and brings about its closure without full-fledged enquiry. Though High Court may exercise its power relating to cognizable offences to prevent abuse of process of any Court or otherwise to secure the ends of justice, the power should be exercised sparingly. For example, where the allegations made in the FIR or 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 or allegations in the FIR do not disclose a cognizable offence or do not disclose commission of any offence and make out a case against the accused or where there is express legal bar provided in any of the provisions of the Code or in any other enactment under which a criminal proceeding is initiated or sufficient material to show that the criminal proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused due to private and personal grudge, the High Court may step in. Though the powers possessed by the High Court u/s 482 are wide, however, such power requires care/caution in its exercise. The interference must be on sound principles and the inherent power should not be exercised to stifle a legitimate prosecution. We make it clear that if the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of inherent powers u/s 482.

10. In the light of the above pronouncements and consideration of facts and circumstances, I am of the view that a prima facie case is made out against the accused and it would be improper to outrightly reject the prosecution case. The Ld. MM was right in framing charges against the petitioner.

11. The petition being without any merit is hereby dismissed.