2024 INSC 322

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024
[Arising out of SLP(Criminal) No. 8922 of 2022]

MANEESHA YADAV AND OTHERS ...APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH AND ANOTHER ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. OF 2024
[Arising out of SLP(Criminal) No. 3698 of 2023]

J U D G M E N T

B.R. GAVAI, J.

CRIMINAL APPEAL @ SLP(CRIMINAL) NO. 8922 OF 2022

1. Leave granted.

2. The present appeal challenges the order passed by the learned Single Judge of the High Court of Judicature at Allahabad dated 23rd August 2022, rejecting the petition filed by the present appellants for quashing of the First Information Report (for short, 'FIR').

3. The complainant had filed the complaint that the initial permission for providing admission was granted to Raj

School of Nursing and Paramedical College, Gorakhpur (for short, 'the said institute') for sixty seats but subsequently the permission was reduced to forty seats. However, in spite of reduction of number of seats, the said institute had admitted sixty students. When the result of twenty students was not published, the said students came to know about the fact that twenty students were illegally admitted and as such the complaints came to be filed by some of those students. One of such complaints was filed by Respondent No.2 herein. On the basis of such complaints, an FIR bearing Case Crime No.18 of 2015 came to be registered in Police Station Kotwali, District Gorakhpur, Uttar Pradesh.

4. The averments made in the FIR are that one Dr. Rajaram Yadav is the Manager of the said institute, Dr. Abhishek Yadav is the Director and Dr. C. Prasad is the Principal of the said institute. The averments are that sixty seats were advertised in the newspapers and the complainant was given allurement that her admission was against a sanctioned strength and as such she was induced to pay a huge amount. The FIR was registered for the offences punishable under Sections 419, 420, 467, 468, 471, 406,

504 and 506 of the Indian Penal Code, 1860 (for short, 'IPC').

5. Subsequently, the complainant realized that her admission was not against the sanctioned strength. As such, she lodged the complaint alleging therein that she was induced to take admission in the college by giving an impression that her admission was against a sanctioned seat and further induced her to pay a huge amount. As such, it was averred that the accused persons had cheated the complainant.

6. The three petitioners (appellants herein), invoking the jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), filed a petition for quashing of the said FIR on the ground that no case was made out against them. The High Court, while referring to the various judgments of this Court, observed that the defence of the accused cannot be considered at this stage. The High Court further observed that the petitioners (appellants herein) had an alternative remedy to apply for discharge under Section 239 or 227 or 245 of the Cr.P.C. The High Court, therefore refused to entertain the petition and rejected it in *limine*. This Court, vide order dated 30th September 2022, issued interim direction restraining the

respondents from taking any coercive steps against the appellants herein.

7. We have heard Shri Prem Prakash, learned counsel appearing for the appellants and Shri Ravindra Kumar Raizada, learned Additional Advocate General for the State of Uttar Pradesh.

8. Shri Prem Prakash, learned counsel, submits that the appellants herein are not at all involved with the said institute; they are neither the office bearers nor entrusted with the duties of the day-to-day management of the said institute. It is therefore submitted that the High Court erred in refusing to quash the proceedings against the appellants herein.

9. Shri Raizada, per contra, submits that one of the appellants is the wife of the Director and the second appellant is the sister of the Director and daughter of the Manager and the third appellant is an employee of the said institute. It is submitted that, as such the appellants herein were not involved in the illegalities committed by the said institute. It is further submitted that in any case, since the charge-sheet has already been filed, the appellants can very well apply for discharge.

10. No doubt that at the stage of quashing of the

proceedings under Section 482 Cr.P.C., the Court is not required to take into consideration the defence of the accused. However, the FIR, even if taken at its face value, should disclose the material which would be sufficient to constitute the ingredients of the offences for which the FIR was lodged.

11. Taken at its face value, the averments made in the FIR against the appellants herein are that Smt. Maneesha Yadav is the wife of Dr. Abhishek Yadav. Dr. Poonam Yadav is the sister of Dr. Abhishek Yadav and daughter of Dr. Rajaram Yadav. Insofar as Shobhita Nandan Yadav i.e. appellant No.3 is concerned, the averment is that he is an employee of the said institute. Apart from that, there is not a single line in the entire FIR, which would show as to how the aforesaid appellants are concerned with the management of the said institute. No specific role of inducement by the complainant is attributed to any of the appellants herein. Merely because the appellants are close relatives of the Manager or Director of the said institute, cannot be a ground to involve them in criminal proceedings. Unless some material was placed on record to show that the appellants herein were in-charge of

the affairs of the said institute or had any role to play in the management of the institute or were involved in inducing the complainant and other students to give them admission against the unrecognized seats; in our view, the continuation of the criminal proceedings would be nothing else but an abuse of process of law.

12. We may gainfully refer to the following observations of this Court in the case of ***State of Haryana and Others v. Bhajan Lal and Others***[1]***:***

> "**102.** 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 channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
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> (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 fa-

1 **1992 Supp (1) SCC 335 : 1990 INSC 363**

cie 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 FIR 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 FIR do not constitute a cognizable offence but constitute only a non-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.
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> (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.
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> **103.** We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

13. As has already been observed hereinabove, the Court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint at the stage of quashing of the proceedings under Section 482 Cr.P.C. However, the allegations made in the FIR/complaint, if taken at its face value, must disclose the commission of an offence and make out a case against the accused. At the cost of repetition, in the present case, the allegations made in the FIR/complaint even if taken at its face value, do not disclose the commission

of an offence or make out a case against the accused. We are of the considered view that the present case would fall under Category-3 of the categories enumerated by this Court in the case of ***Bhajan Lal and Others*** (supra).

14. We may gainfully refer to the observations of this Court in the case of ***Anand Kumar Mohatta and Another v. State (NCT of Delhi), Department of Home and Another***[2]***:***

> "**14.** First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge-sheet is filed, petition for quashing of FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in *Joseph Salvaraj A.* v. *State of Gujarat* [*Joseph Salvaraj A.* v. *State of Gujarat*, (2011) 7 SCC 59 : (2011) 3 SCC (Cri) 23] . In *Joseph Salvaraj A.* [*Joseph Salvaraj A.* v. *State of Gujarat*, (2011) 7 SCC 59 : (2011) 3 SCC (Cri) 23] , this Court while deciding the question whether the High Court could entertain the Section 482 petition for quashing of FIR, when the charge-sheet was filed by the police during the pendency of the Section 482 petition, observed : (SCC p. 63, para 16)
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> > "*16.* Thus, from the general conspectus of the various sections under which the appellant is being charged and is to be prosecuted would show that the same are not made out even prima facie from the complainant's FIR. Even if the charge-sheet had been filed, the learned Single Judge [*Joesph Saivaraj A.* v. *State of Gujarat*, 2007 SCC OnLine Guj 365] could have still examined whether the offences al-

2 **(2019) 11 SCC 706 : 2018 INSC 1060**

leged to have been committed by the appellant were prima facie made out from the complainant's FIR, charge-sheet, documents, etc. or not."

15. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482 CrPC and that this Court is hearing an appeal from an order under Section 482 CrPC. Section 482 CrPC reads as follows:

> "**482. *Saving of inherent powers of the High Court*.**—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice."

16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 CrPC even when the discharge application is pending with the trial court [*G. Sagar Suri* v. *State of U.P.*, (2000) 2 SCC 636, para 7 : 2000 SCC (Cri) 513. *Umesh Kumar* v. *State of A.P.*, (2013) 10 SCC 591, para 20 : (2014) 1 SCC (Cri) 338 : (2014) 2 SCC (L&S) 237] . Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court."

15. Insofar as the reasoning of the High Court that the appellants herein can file an application for discharge is concerned, this Court, in a catena of decisions, has held that merely because the charge-sheet is filed cannot be a ground for the High Court to not invoke its jurisdiction under Section 482 of the Cr.P.C. Continuation of the criminal proceedings would not be in the interest of justice and would result only in the harassment of the appellants herein when there is no material against them. In our view, this would be abdicating the jurisdiction vested with the High Court.

16. We find that, in the present case, the High Court has not even referred to the averments made in the FIR but has mechanically dismissed the petition by observing that the appellants herein can file an application for discharge.

17. In that view of the matter, we find that continuation of criminal proceedings against the appellants herein would result in undue harassment when there is no material against them and may result in the abuse of process of law.

18. The appeal is therefore allowed. The impugned order of the High Court is quashed and set aside and the FIR bearing Case Crime No.18 of 2015 and consequential charge-sheet filed against the appellants herein shall also stand quashed

and set aside.

19. Pending application(s), if any, shall stand disposed of.

CRIMINAL APPEAL @ SLP(CRIMINAL) NO. 3698 OF 2023

1. Leave granted.

2. For the reasons recorded while allowing the appeal arising out of SLP(Criminal) No. 8922 of 2022, the present appeal is also allowed.

3. The impugned order dated 20th December 2022 passed by the High Cout of Judicature at Allahabad in Criminal Misc. Writ Petition No. 17002 of 2022 is quashed and set aside and the pending proceedings qua the appellants herein filed under the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 are quashed and set aside.

4. Pending application(s), if any, shall stand disposed of.

.....J.
(B.R. GAVAI)

.....J.
(PRASHANT KUMAR MISHRA)

NEW DELHI;
APRIL 09, 2024.