

Shubham And 5 Others vs State Of U.P. And Another on 28 March, 2025

Author: Raj Beer Singh

Bench: Raj Beer Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:44171

Reserved

Court No. - 71

Case :- APPLICATION U/S 482 No. - 34222 of 2024

Applicant :- Shubham And 5 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Manoj Kumar Dubey,Vipul Kumar Dubey

Counsel for Opposite Party :- Brahma Nand Pandey,G.A.,Ranjeet Verma

Hon'ble Raj Beer Singh,J.

1. Heard Sri Satyendra Narayan Singh, holding brief of Sri Vipul Kumar Dubey, learned counsel for the applicants, Sri Brahma Nand Pandey, holding brief of Sri Ranjeet Verma, learned counsel for opposite party No. 2 and learned AGA for the State.

2. This application u/s 482 Cr.P.C. has been filed for quashing of the entire proceedings, including summoning order dated 17.01.2023, of Case No. 1852 of 2020, (Registration No. 8488/2020), under Sections 323, 504, 506 I.P.C., Police Station Mahrajganj, District Jaunpur, pending in the court of C.J.(J.D.)/FTC, Jaunpur. The order dated 30.04.2024, passed by learned Additional Sessions Judge, Court No. 2, Jaunpur, in criminal revision no. 488 of 2023 is also being impugned.

3. It has been argued by learned counsel for the applicants that the impugned complaint has been lodged by opposite party No. 2 / complainant making false and frivolous allegations. The applicant No. 5 has made a complaint to the revenue authorities regarding illegal encroachment of Arazi Nos. 421 and 423 against the brother of complainant and others and in that connection the revenue officials have submitted a report, wherein it was mentioned that the complainant and others have illegally encroached the said land. Further, on 02.07.2020 the brother of applicant No. 6 has lodged a first information report against the complainant and his family members for the offence under Sections 147, 323, 504, 506 IPC and after that the impugned complaint has been lodged on 24.07.2020 as a counterblast. The complainant has not sustained any injury. Referring to the facts of the matter, it was submitted that the impugned proceedings are malicious and that no prima facie case is made out against the applicants and thus, the impugned proceedings are liable to be quashed.

4. Learned counsel for opposite party No. 2/complainant and learned AGA for the State have opposed the application and submitted that in fact the applicants have illegally taken over possession of Arazi No. 421. It was submitted that on 06.05.2020 applicants have abused and assaulted the complainant and they have snatched Rs. 800/- from him. The complainant has supported that version in his statement, recorded under Section 200 Cr.P.C. Regarding incident dated 02.07.2020 one first information report was lodged by the sister-in-law of complainant against the applicants and others. It was further submitted that in the affidavit a false averment has been made on behalf of the applicants that they have no criminal history. Referring to the facts of the matter, it was submitted that a prima facie case is made out against the applicants.

5. I have considered the rival submissions and perused the record.

6. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint or a charge-sheet should be exercised sparingly and only in exceptional cases. However, where the allegations made in the FIR or the complaint and material on record even if 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, the charge-sheet may be quashed in exercise of inherent powers under Section 482 of the Cr.P.C. In well celebrated judgment reported in State of Haryana and others Vs. Ch. Bhajan Lal, AIR 1992 SC 605, the Hon'ble Supreme Court has carved out certain guidelines, wherein FIR or proceedings may be quashed but cautioned that the power to quash FIR or proceedings should be exercised sparingly and that too in the rarest of rare cases. The broad guidelines laid down by the Apex court for quashing a criminal complaint read as under:-

"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 channelized and inflexible

guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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 facie 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 1 1992 Supp 1 SCC 335 6 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.

(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."

7. In *State of Andhra Pradesh Vs. Golconda Linga Swamy & Anr.* (2004) 6 SCC 522, the Apex Court elaborated on what evidence and material the High Court can get into in cases where a prayer for quashing a complaint has been made. The Court held:-

"Authority of the Court exists for advancement of justice, and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent such abuse. It would be an abuse of the process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers

court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the Court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

8. In *R.P. Kapur Vs. State of Punjab* AIR 1960 SC 866 : 1960 Cri LJ 1239, the Court observed that inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction. However, the Apex Court indicated some categories of cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There may be cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding, the High Court would be justified in quashing the proceeding on that ground. Cases may also arise where the allegations in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged.

9. Thus, the legal position is well settled that where the allegations made in the complaint and material on record even if 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, the charge-sheet / complaint may be quashed. Similarly, where the allegations made in the complaint are absurd and inherently improbable or where criminal proceeding is manifestly attended with mala fide or maliciously instituted with an ulterior motive, the complaint / proceedings may be quashed.

10. It would be relevant to mention that applicant No. 4 Sushil has filed a revision against the summoning order dated 17.01.2023 and that revision was dismissed by the Session court vide order dated 30.04.2024. It is correct that availing of the remedy of the revision before the Sessions Judge under Section 399 CrPC does not bar a person from invoking the power of the High Court under Section 482 but it is equally true that the High Court should not act as a second Revisional Court under the garb of exercising inherent powers. While exercising its inherent powers in such a matter it must be conscious of the fact that the Sessions Judge has declined to exercise his revisory power in the matter. In this connection a reference may be made to the case of *Deepti alias Arati Rai v. Akhil Rai & Ors*, (1995) 5 SCC 751, *Dharampal & Ors. v. Ramshri*; 1993 (1) SCC 435 and *Rajathi Vs. C.Ganesan*; 1999 SCC (Cri) 1118.

11. Keeping in view the aforesaid legal position, in the instant case it may be seen that in his statement, recorded under Section 200 Cr.P.C., the complainant has made merely vague allegations that on 06.05.2020 at about 07:00 PM, applicants-accused have abused him and did 'maarpeet' and

they have snatched Rs. 800/- from him. It has not been clarified that what specific abuses were hurled by the applicants. As per version of complainant, he was attacked by six applicants-accused persons but he has not sustained any injury. Further, perusal of record shows that on 02.07.2020 the brother of applicant No. 6, namely Avnish Kumar has lodged a first information report against the complainant and his family members for the offence under Sections 147, 323, 504, 506 IPC and after that the impugned complaint has been lodged by the complainant on 24.07.2020 regarding alleged incident dated 06.05.2020. In view of attending facts and circumstances, the long delay in filing the impugned complaint raises a serious doubt about the authenticity of the version of complainant. As stated-above, in his statement under Section 200 Cr.P.C. the allegations levelled by the opposite party No. 2/complainant are quite vague and he has not sustained any injury.

12. The aforesaid facts and circumstances of the case show that the impugned complaint was filed by the opposite party No. 2 / complainant as a counterblast to the case lodged by the brother of applicant No. 6, namely Avnish Kumar against the complainant and his family members for the offence under Sections 147, 323, 504, 506 IPC. The vagueness of allegations made by the complainant and long delay in lodging of the impugned complaint further raises serious doubt about authenticity of the version of complainant. As stated-above the complainant has not sustained any injury. It appears that the impugned proceedings are attended with mala fide and the same have been maliciously instituted for wreaking vengeance upon the applicants-accused. Though as stated-above the revision filed by one of the applicant No. 4 has already been dismissed by the Session Court and in such circumstances interference under section 482 CrPC can be made only in extra-ordinary circumstances but the above-referred attending facts show that if the impugned proceedings are allowed to proceed, the same would be gross abuse of the process of court, hence a case for invoking powers under Section 482 Cr.P.C. is made out and the impugned proceedings are liable to be quashed.

13. In view of the aforesaid, the impugned proceedings, including summoning order, of aforesaid case against applicants, namely, Shubham, Satyam, Shivam, Sushil, Rajesh and Sunil are hereby quashed. The impugned order dated dated 30.04.2024, passed in criminal revision no. 488 of 2023 by the Additional Sessions Judge, Court No. 2, Jaunpur also stand quashed.

14. The application under Section 482 Cr.P.C. is allowed.

Order Date :- 28.03.2025 Anand