(2012) 08 P&H CK 0262

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-23873 of 2012 (O and M)

Sumer		APPELLANT
	Vs	
State of Haryana		RESPONDENT

Date of Decision: Aug. 21, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 155(2), 156(1), 482
- Penal Code, 1860 (IPC) - Section 489B, 489C

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Advocate: Sandeep Kotla, for the Appellant;

Final Decision: Dismissed

Judgement

Mehinder Singh Sullar, J.

The crux of the facts & material, culminating in the commencement of, relevant for deciding the instant petition and emanating from the record, is that, a criminal case was registered against the petitioner-accused alongwith his other co-accused, by virtue of FIR No. 1110 dated 17.11.2009 (Annexure P1), on accusation of having committed the offences punishable under Sections 489B & 489C IPC by the Police of Police Station City Hisar. He did not face the trial and was declared proclaimed offender. However, the prosecution submitted the final police report only against his three co-accused, namely, Krishan Kumar son of Khushi Ram, Mukesh son of Mahender Singh Saini and Usha wife of Habib Khan in this relevant connection. Instead of submitting to the jurisdiction & appearing before the trial Court to face the trial, the petitioner-accused, who was declared proclaimed offender, has straightway jumped to file the present petition for quashing the impugned FIR (Annexure P1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.PC.

2. After hearing the learned counsel for the petitioner, going through the record with his valuable assistance and after deep consideration over the entire matter, to my mind, there is no merit in the instant petition in this regard.

3. Ex facie, the argument of learned counsel that since the petitioner has been falsely implicated and his co-accused have been acquitted, so, the impugned FIR (Annexure P1) is liable to be quashed, is not only devoid of merit but misplaced as well.

4. As is evident from the record, that a criminal case was registered against the petitioner-accused alongwith his co-accused under Sections 489B & 489C IPC, in respect of dealing with the fake currency notes. There are direct allegations even in the FIR that on 17.11.2009, co-accused of the petitioner has made a statement that he had purchased the fake currency notes of Rs. 1 lac of the denomination of Rs. 1000 & 500/- from petitioner Sumer, resident of Kalani (Rajasthan), out of which, Rs. 40,000/- were given to Mukesh son of Mahender Singh Saini, 15 days back at the rate of 60% and Rs. 20,000/- were given to Sunita, wife of Chanderbhan. The fake currency notes were recovered from their possession.

5. Not only that, accused Krishan Kumar Sandhu has identified the house of petitioner in Rajasthan. Meaning thereby, the petitioner is the main accused and main source of supplying the fake currency notes in bulk to his other co-accused. It is not a matter of dispute that the currency notes were found to be counterfeit by Forensic Science Laboratory, Madhuban. The mere fact that the co-accused of petitioner were acquitted, ipso facto, is not a ground to quash the impugned FIR against the petitioner. The individual case of each accused has to be decided on the basis of evidence brought on record by the prosecution against him during the trial. Keeping in view the seriousness of the allegations that petitioner is the main source of supplying the fake currency notes in bulk, it cannot possibly be saith at this stage that the prosecution would not produce adequate evidence against him, as urged on his behalf. Thus, as the petitioner is the main accused & source of supplying the currency notes and his complicity can only be determined during the course of trial, therefore, no ground for quashing the impugned FIR is made out in this regard at this stage.

6. What cannot possibly be disputed here is that the Hon''ble Supreme Court has authoritatively held, in a celebrated judgment in case State of Haryana and others Vs. Ch. Bhajan Lal and others, , which was again reiterated in case Som Mittal v. Government of Karnataka 2008 (2) R.C.R.(Criminal) 92, that the criminal prosecution can only be quashed in rarest of rare case at the initial stage as per the following conditions:-

(i) 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.

(ii) 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 S. 156(1) of the Code except under an order of a Magistrate within the purview of S. .155(2) of the Code.

(iii)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.

(iv) Where, the allegations in the F.I.R. 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 S.155(2) of the Code.

(v) 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.

(vi) 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.

(vii) 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. Again the Hon''ble Apex Court in case Jeffery J. Diermeier & Anr. v. State of West Bengal & Anr. 2010 (3) R.C.R.(Criminal) 183, having interpreted the scope of section 482 Cr.PC, has ruled (para 16) as under:-

16. Before addressing the contentions advanced on behalf of the parties, it will be useful to notice the scope and ambit of inherent powers of the High Court u/s 482 of the Code. The Section itself envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code; (ii) to prevent abuse of process of Court; and (iii) to otherwise secure the ends of justice. Nevertheless, it is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction of the Court. Undoubtedly, the power possessed by the High Court under the said provision is very wide but is not unlimited. It has to be exercised sparingly, carefully and cautiously, ex debito justitiae to do real and substantial justice for which alone the court exists. It needs little emphasis that the inherent jurisdiction does not confer an arbitrary power on the High Court to act according to whim or caprice. The power exists to prevent abuse of authority and not to produce injustice.

8. The celebrated contentions of learned counsel that the petitioner has been falsely implicated, his co-accused have been acquitted, the allegations leveled against him are vague and false, there is no cogent evidence against him and other submissions, relatable to the appreciation of evidence (as now sought to be urged on his behalf), would be the moot points to be decided during the course of trial by the trial Court. If all such points, which require determination by the trial Court, are to be decided by this Court in the garb of petition u/s 482 Cr.PC, then the sanctity of the trial would pale into insignificance and amount to nullify the statutory procedure of trial as contemplated under the Code of Criminal Procedure, which is not legally permissible.

9. Moreover, it is now well settled principle of law that the High Court should not ordinarily embark upon an inquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it the accusation would not be sustained, are the functions of the trial Judge to do so. The High Court must be careful to see that its decision in exercise of its power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. Reliance in this connection can be placed upon the judgment of Hon''ble Supreme Court in case U.P. Pollution Control Board Vs. Dr. Bhupendra Kumar Modi and Another, .

10. Therefore, the Bench mark set out in the aforesaid judgments and essential ingredients for quashing the impugned FIR (Annexure P1) at this stage are totally lacking in this case. Hence, the submissions of learned counsel for petitioner "stricto sensu" deserve to be and are hereby repelled under the present set of circumstances as the ratio of law laid down in the indicated judgments "mutatis mutandis" is applicable to the facts of the present case and is the complete answer to the problem in hand.

11. No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the petitioner.

12. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of the main case, as there is no merit, therefore, the instant petition is hereby dismissed as such. Needless to mention that nothing observed, here-in-above, would reflect, in any manner, on merits during the trial of the main case, as the same has been so recorded for a limited purpose of deciding the present petition in this relevant direction.