[2023] 11 S.C.R. 313 : 2023 INSC 683

MOHAMMAD WAJID AND ANR.

v.

STATE OF U.P. AND ORS.

(Criminal Appeal No. 2340 of 2023)

AUGUST 08, 2023

[B. R. GAVAI AND J. B. PARDIWALA*, JJ.]

Issue for consideration: In the instant case wherein FIR was registered u/ss. 395, 504, 506 and 323 IPC against the appellants, the questions which arose for consideration are whether the said case falls within the parameters laid down for quashing the FIR; whether the plain reading of the FIR discloses commission of the offence of dacoity punishable u/s. 395 IPC; whether any case of criminal intimidation punishable u/ss. 504 and 506(2) IPC is made out; and whether the allegations levelled in the FIR inspire any confidence considering the delay of one year in lodging the FIR.

Code of Criminal Procedure, 1973 – s. 482 – FIR – Quashing of – FIR alleging that to settle a land dispute the informant and his brother visited the house of the appellant on their own free will wherein the appellant and the other co-accused assaulted the informant and his brother, forcibly took Rs. 2 lakh from the informants' pocket and thereafter took their signatures forcibly on a blank paper – FIR registered u/ss. 395, 504, 506 and 323 IPC – High Court declining to quash the FIR – Correctness:

Held: Entire case put up by the informant on the face of it appears to be concocted and fabricated – Multiple FIRs have been registered against the appellant and the other accused over a period of time which attract wreaking vengeance out of private or personal grudge – Continuation of the criminal case arising from the FIR would be nothing but abuse of the process of the law – Thus, the impugned order passed by the High Court set aside and the criminal proceedings arising from the FIR quashed – Penal Code, 1860 – ss. 395, 504, 506 and 323. [Paras 29, 30, 35 and 36]

Penal Code, 1860 – s. 395 – Punishment for Dacoity – FIR alleging that to settle a land dispute the informant and his

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brother visited the house of the appellant wherein the appellant and the co-accused assaulted the informant and his brother and forcibly took R. 2 lakh from the informants' pocket – Registration of FIR for the offence punishable u/s. 395, 504, 506 and 323 IPC – Correctness:

Held: s. 395 is not applicable to the instant case – Prosecution blindfoldedly and without understanding the true purport of the offence of "dacoity" registered the FIR for the offence punishable u/s. 395 – None of the ingredients to constitute the offence of dacoity disclosed – Entire case put up by the first informant appears to be fabricated – At the time of alleged incident, taking away of Rs. 2 Lakh from the pocket of the informant forcibly by the accused persons would not fall within the ambit of the words "for that end" occurring in s. 390 – Even according to the informant, with a view to settle the land dispute, the informant and his brother visited the house of the appellant on their own free will and volition – It is only after reaching the house of the appellant that the entire incident is alleged to have occurred. [Paras 17 and 18]

Penal Code, 1860 – s. 390 – Robbery – Theft when amounts to robbery:

Held: Three ingredients mentioned in s.390 must always be satisfied before theft can amount to robbery **–** Firstly, the offender must have voluntarily caused or attempted to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint – Secondly this must be in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft – Thirdly the offender must voluntarily cause or attempt to cause to any person hurt etc., for that end, that is, in order to the committing of the theft or for the purpose of committing theft or for carrying away or attempting to carry away property obtained by the theft. [Paras 14 and 15]

Penal Code, 1860 – s. 504 – Intentional insult with intent to provoke breach of peace – Necessary ingredient u/s. 504:

Held: Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of s. 504 if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence

and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace – Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case – There cannot be a general proposition that no one commits an offence u/s. 504 if he merely uses abusive language against the complainant. [Paras 25 and 26]

Penal Code, 1860 – s. 506 – Offence of criminal intimidation – When:

Held: Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant – On facts, to settle a land dispute the informant and his brother visited the house of the appellant on their own free will wherein the appellant and the other co-accused assaulted the informant and his brother, forcibly took Rs. 2 lakh from the informants' pocket and thereafter took their signatures forcibly on a blank paper and FIR was registered u/ss. 395, 504, 506 and 323 – Prima facie case to constitute the offence punishable u/s. 506 may probably could be said to have been disclosed but not u/s. 504 – In the FIR, all that the informant has stated is that abusive language was used by the accused persons – What exactly was uttered in the form of abuses not stated in the FIR – One of the essential elements constituting an offence u/s. 504 is that there should have been an act or conduct amounting to intentional insult – Where that act is the use of the abusive words, it is necessary to know what those words were in order to decide whether the use of those words amounted to intentional insult – In the absence thereof, not possible to decide whether the ingredient of intentional insult present – Thus, case of criminal intimidation punishable u/ss. 504 and 506(2) not made out. [Para 29]

Interpretation of statutes – Penal statute – Interpretation of:

Held: Must be strictly construed – Court must see that the thing charged is an offence within the plain meaning of the words used and must not strain the words. [Paras 19 and 21]

FIR – Quashing of – Invocation of inherent powers u/s. 482 CrPC or extraordinary jurisdiction u/Art. 226 of the Constitution – Duty of the court:

Held: Whenever an accused seeks quashing of the FIR or the criminal proceedings essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, in such circumstances the Court owes a duty to look into the FIR with care and a little more closely – It would not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of the alleged offence are disclosed or not – In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines – Court is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. [Para 26]

FIR – Importance and object of:

Held: FIR in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial – Object of insisting upon lodging of the FIR to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as names of the eye witnesses present at the scene of occurrence. [Para 32]

Delay/ Laches – Delay in lodging FIR – Ground to quash FIR:

Held: Delay in the registration of the FIR, by itself, cannot be a ground for quashing of the FIR – However, delay with other attending circumstances rendering the entire case put up by the prosecution inherently improbable, may at times become a good ground to quash the FIR and consequential proceedings – If the FIR, like the instant one, lodged after a period of more than one year without disclosing the date and time of the alleged incident and further without any plausible and convincing explanation for such delay, the accused cannot defend himself in the trial – Allegations are too vague and general – In the absence of all this material, the State cannot prove its case against the accused persons. [Paras 32 and 33]

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Criminal Law – Criminal antecedents of the accused – Effect of, on the criminal proceedings:

Held: Criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings – An accused has a legitimate right to say before the Court that howsoever bad his antecedents may be, still if the FIR fails to disclose commission of any offence then the court should not decline to quash the criminal case – Initiation of prosecution has adverse and harsh consequence for the persons named as accused – Thus, the requirement and need to balance the law enforcement power and protection of citizens from injustice and harassment must be maintained – State owes a duty to ensure that no crime goes unpunished as also owes a duty to ensure that none of its subjects are unnecessarily harassed. [Para 34]

State of Haryana v. Bhajan Lal, **AIR 1992 SC 604: [1990] 3 Suppl. SCR 259;** *Bishambhar Nath v. Emperor,* **A.I.R. 1941 Oudh 476;** *Karuppa Gounden v. Emperor,* **A.I.R. 1918 Madras 821;** *Otaruddi Manjhi v. Kafiluddi Manjhi,* **(1900-01) 5 C.W.N. 372;** *King Emperor v. Mathura Thakur,* **(1901-02) 6 C.W.N. 72;** *King Emperor v. Chunnibhai Dayabhai,* **(1902) 4 Bom LR 78;** *State of Andhra Pradesh v. Golconda Linga Swamy,* **(2004) 6 SCC 522: [2004] 3 Suppl. SCR 147;** *Directorate of Revenue and another v. Mohammed Nisar Holia,* **(2008) 2 SCC 370: [2007] 12 SCR 906 – referred to.**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2340 of 2023.

From the Judgment and Order dated 17.10.2022 of the High Court of Judicature at Allahabad in CRLMWP No. 15174 of 2022.

Siddhartha Dave, Sr. Adv., Mohd. Zahid Hussain, Ms. Jemtiben A.O, Utsav Sehgal, Ms. Mumtaz Javed Shaikh, Advs. for the Appellants.

Ms. Garima Prasad, Sr. A.A.G., Brijendra Chahar, Sr. Adv., Vishwa Pal Singh, Aviral Saxena, Rabindra Lokhare, Ms. Shweta Yadav, Abhinav Agrawal, Harsh Pratap Shahi, Ms. Manvi Dikshit Sharma, Ashutosh Bhardwaj, Prateek Rai, Shubham Saxena, Akash, Naman Raj Singh, Ashish Pandey, Advs. for the Respondents.

The Judgment of the Court was delivered by

J. B. PARDIWALA, J.

1. Leave granted.

2. This appeal is at the instance of the original accused Nos. 1 and 2 resply of the First Information Report (FIR) being the Crime Registration No. 224 of 2022 dated 19.09.2022 registered with the Mirzapur Police Station, District Saharanpur, State of U.P. for the offences punishable under Sections 395, 504, 506 and 323 of the Indian Penal Code (IPC) and is directed against the order passed by the High Court of Judicature at Allahabad dated 17.10.2022 in the Criminal Miscellaneous Writ Petition No. 15174 of 2022 by which the High Court rejected the Writ Petition filed by appellants herein thereby declining to quash the aforesaid FIR.

FACTUAL MATRIX

3. The respondent No. 4 herein namely Ram Kumar lodged FIR No. 224 of 2022 for the offences enumerated above at the police station also referred to above. The FIR reads thus:-

"… The undersigned Ramkumar son of Sadhuram is a resident of Kasimpur, P.S. Mirjapur. I want to submit that Haji Iqbal, his son Javed, Wazid, Alishan, Afjal and brother of Iqbal namely Mehmood Ali forcefully started to tell us since long that our land bearing Khasra No. 256/1 situated at Village Mayapur belongs to them. It is in the year 2021 when time for cultivation arrived, that myself and my brother Rajkumar went to the house of Iqbal, son of Abdul Wahid at Mirjapur. We requested him that you people are disturbing the peace and tranquility of us. We said, we were destitudes. It is on that Iqbal, his brother Mehmood and his sons namely Zabed, Wajid, Alishan and Afjal became very furious on us. They started using abusive language against us. We requested them to stop uttering abusive language. It is at that time all these persons assaulted us with their hands and fists for a long time. It is thereafter they on a point of pistol put on my forehead, they took away Rs. 2 lakh kept in my pocket forcefully. Thereafter, all these people stated that if we would talk of this to any one, they would kill all the members of our family. It is then Iqbal told me to sign the stamp paper. After terrorizing and

threatening us, they compelled we both brothers to put our signatures on the stamp papers. We being robbed, we returned silently to our home. We thereafter communicated the present fact before our family members. It is however due to fear of these persons, none of the members of our family supported us against these persons. After thinking a lot and mustering courage, I have come down before your police station for lodging the present report. Applicant Sd/-Rajkumar 19.09.2022-Ram Kumar s/o Sadhuram r/o Kasimpusr, P.S. Mirjapur, District Saharanpur, M.No. 9758031420."

(Emphasis supplied)

4. Thus the FIR as aforestated reveals that the first informant is a resident of village Kasimpur, Mirzapur, District Saharanpur. His name has been recorded as a tenure holder of agricultural land bearing Khasra No. 256/1 situated at village Mayapur, District Saharanpur. He has alleged that the appellants herein alongwith few other co-accused have been putting forward wrong claim of being the owners of the land bearing Khasra No. 256/1. It is his case that sometime in the year 2021, he along with his brother namely Rajkumar had visited the house of the appellant No. 2 herein situated at Mirzapur to request him not to interfere with their lawful possession and ownership of the land in question. It is his case that at that point of time the appellants herein and other co-accused hurled abuses to the first informant and his brother Rajkumar and all the accused thereafter assaulted the first informant and his brother with hands and fists. It is further alleged that at that point of time the accused persons on the point of a gun forcibly took away Rs. 2 Lakh from the pocket of the first informant. The accused persons are also alleged to have threatened the first informant that if he would talk to anyone about the incident, then all his family members would be killed. In the last, the first informant has alleged that the accused persons forcibly obtained signatures of the first informant and his brother on a plain stamp paper. After the alleged incident, the first informant and his brother Rajkumar left the house of the appellant No. 2 herein.

5. It is pertinent to note that for the incident alleged to have occurred in the year 2021, the FIR was lodged in the year 2022. It is also pertinent to note that in the FIR, no date and time of the alleged

incident has been stated. No plausible explanation was offered by the first informant as to why there was inordinate delay in lodging the FIR.

6. The appellants herein went before the High Court of Judicature at Allahabad and filed Criminal Miscellaneous Writ Petition No. 15174 of 2022 and prayed for the quashing of the FIR in question. The High Court declined to entertain the writ application and rejected the same observing as under:-

"Heard learned counsel for the petitioners and learned A.G.A for the State respondents.

The relief sought in this petition is for quashing of the F.I.R. dated 19.09.2022, registered as Case Crime No. 0224 of 2022, under sections 395, 504, 506, 323 I.P.C., Police Station Mirzapur, District Saharanpur.

Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.

Perusal of the impugned first information report prima facie reveals commission of cognizable offence. Therefore, in view of the law laid down by Hon'ble Supreme Court in the case of State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335 and M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918 and in Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar Pradesh) decided on 07.10.2021, no case has been made out for interference with the impugned first information report.

Therefore, the writ petition is dismissed leaving it open for the petitioners to apply before the competent court for anticipatory bail/ bail as permissible under law and in accordance with law."

Feeling aggrieved and dissatisfied with the aforesaid, the appellants are before this Court with the present appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

7. Mr. Siddhartha Dave, the learned senior counsel appearing for the appellants in the written submissions filed by him has stated as under:-

"1. The Petitioners who are Accused Nos. 6 and 1 respectively in FIR No. 224 of 2022 have filed the present Special Leave Petition against the impugned judgment and final order dated 17.10.2022 passed by the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. Writ Petition No. 15174 of 2022, whereby the Hon'ble High Court has dismissed the said Writ Petition filed by the Petitioners under Article 226 of the Constitution of India seeking quashing of FIR No. 224 of 2022 dated 19.09.2022 registered under Sections 395, 504, 506 & 323 of the Indian Penal Code against six accused persons namely, Mohd. Iqbal alias Bala (Petitioner No. 2 herein), Mehmood Ali (Brother of Petitioner No. 2), Afjal (Son of Petitioner No. 2), Alishan (Son of Petitioner No. 2), Javed (Son of Petitioner No. 2), and Mohammad Wajid (Petitioner No. 1 herein and son of Petitioner No. 2) at Police Station Mirzapur, District Saharanpur.

2. The allegation in the said FIR No. 224 of 2022 dated 19.09.2022 is that the Complainant Ram Kumar (Respondent No. 4 herein), who is a resident of Village Kasimpur, Mirzapur, District Saharanpur, is recorded as a tenure holder of land situated at Khasra No. 256/1, Village Mayapur, Mirzapur, District Saharanpur. It is further alleged that the accused Haji Iqbal (Petitioner No. 2 herein) and his sons Javed, Mohammad Wajid (Petitioner No. 1 herein), Alishan, Afjal and his brother Mehmood Ali had earlier claimed that the said land bearing Khasra No. 256/1 belonged to them. In the year 2021, when the Complainant and his bother Raj Kumar went to Petitioner No. 2's house situated at Mirzapur, Saharanpur and requested him not to disturb the peace and tranquility of their land upon which Petitioner No. 2 Iqbal, Mehmood Ali, Javed, Petitioner No.1 Mahmood Wajid, Alishan and Afzal abused the Complainant and thereafter they assaulted him and his brother Raj Kumar with their hands and fists. It is further alleged that the accused persons then pointed a pistol on the Complainant's forehead and forcibly took an amount of Rs. 2 lakh from the Complainant's pocket. The accused persons threatened the Complainant that in case he told anyone about the incident then all his family members will be eliminated. It is further alleged that the accused

persons forcibly got the signatures of the Complainant and his brother on a blank stamp paper and after being robbed of their money the Complainant and his brother quietly returned home.

3. *It is respectfully submitted that the alleged First Information Report is absolutely false and frivolous, and on a reading of the said FIR, the offence of dacoity is clearly not made out against the Petitioners. It is highly doubtful that the Complainant, who was aware of the criminal history of Petitioner No. 2 Iqbal, would go to the house of the accused Petitioner No. 2 with a huge sum of money, that is, Rs. 2 lakh in his pocket and after the alleged incident would remain silent for one year. Although it is alleged that the Complainant and his brother Raj Kumar were assaulted by the accused persons however there is no injury or medical report whatsoever to substantiate the said allegation.*

4. *The allegations in the First Information Report are not only vague but also highly improbable given that except for the bald allegation that the incident occurred in the year 2021, there is no mention of the date and time of incident in the FIR. The said incident allegedly occurred in the year 2021, while the FIR has been lodged after an inordinate delay of 1 year, that is, on 19.09.2022. On a reading of the FIR it is evident that the entire dispute is with respect to the land situated at Khasra No. 256/1, Village Mayapur, Mirzapur, District Saharanpur. It is pertinent to submit that the Petitioners are neither the owner of the land nor have they got anything to do with the said land and there was therefore no question of the Petitioners having threatened and assaulted the Complainant.*

5. *It is submitted that after the change of Government in the State of Uttar Pradesh in the year 2017, the ruling party came to power and immediately after the change of the Government the Petitioners along with their family members were falsely implicated in more than 30 criminal cases at the behest of the ruling party. The Petitioners are being unnecessarily harassed by the State machinery including the Police. Although the Respondent State is heavily relying upon the criminal cases registered against the Petitioners and their family members to show that they are habitual offenders but till date the petitioners*

have not been convicted by any Court of law and moreover every time the Petitioners or their family members gets protection (anticipatory bail or stay of arrest) from either this Hon'ble Court or the Hon'ble High Court, the local police immediately registers false cases against them.

6. *It is submitted that the alleged Look Out Notice dated 10.05.2022 was issued much prior to the registration of the present FIR No. 224 of 2022 which was registered on 19.09.2022 and as such is inconsequential.*

7. *It is respectfully submitted that the alleged First Information Report has been maliciously instituted at the behest of the present ruling party in the State of Uttar Pradesh to wreak vengeance and to settle political scores with Petitioner No. 2 Mohd. Iqbal alias Bala as he belongs to a rival political party and he was also a Member of Legislative Council from the period 2011 to 2016. Petitioner No. 2 Mohd. Iqbal alias Bala belongs to a respectable family of Saharanpur and he is running several Charitable Institutions.*

8. *The allegations made in the First Information Report do not prima facie constitute any offence or make out a case under Sections 395, 504, 506 and 323 IPC against the Petitioner and thus, the FIR is liable to be quashed. It is pertinent to mention that even after the charge sheet has been filed, the petition for quashing of a FIR is well within the powers of a Court of law* ***[Please see: Anand Kumar Mohatta and another VS. State (NCT of Delhi), Department of Home & Another (2019) 11 SCC 706 at paragraph 14 & 16]***

9. *For the reasons mentioned above, the Special Leave Petition may be allowed and the order of the Hon'ble High Court refusing to quash the FIR No. 224 of 2022 dated 19.09.2022 be set aside."*

SUBMISSIONS ON BEHALF OF THE STATE

8. Ms. Garima Prasad, the learned Additional Advocate General appearing for the State of U.P. in her written submissions has stated as under:-

"A. NO AFFIDAVIT OR VAKALATNAMA FILED BY ACCUSED IQBAL @ HAJI IQBAL @ BALA, ACCUSED MEHMOOD AND DILSHAD - NO RELIEF CAN BE GIVEN TO PETITION FILED BY THIRD PARTIES

- *That the instant SLPs have been filed by a third party. The Accused Iqbal @ Haji Iqbal @ Bala nor the other petitioners have signed the vakalatnama and affidavit and Iqbal is absconding from the law. Even, the Writ Petition under section 482 Cr.P.C. filed before the Hon'ble High Court, has not been signed by Iqbal himself. No relief can be granted to those who have not approached this Hon'ble Court.*
- *Accused Iqbal has absconded from the jurisdiction of this Hon'ble Court and has in all likelihood absconded from the country. It is humbly submitted that a person who is not within the jurisdiction of this Hon'ble Court and has not signed any affidavit or vakalatnama, cannot be entitled for any relief.*

Ï% The accused have selectively brought only a few cases before this Hon'ble Court leaving the more heinous and gross cases.

B. Iqbal @ Haji Iqbal @ Bala is the Most Wanted Criminal in the area of Mirjapur District Saharanpur creating terror in the minds of the citizens. He is a known sand mafia, land grabber having grabbed Government Land, Forest Land, Poor Farmers' Land and built a university namely Glocal University, Saharanpur in the area of more than 700 Acres. The Office of Senior Superintendent of Police, Meerut Zone, Meerut, vide its office memo dated 11.02.2023, has declared Iqbal @ Bala a most wanted criminal with a prize money of Rs. 1,00,000/-

- ***PROTECTION OF EARLIER DISPENSATION:*** *It is evident that the Crime world of Accused Iqbal and his family has grown over the past decades with support of earlier dispensation/ Government(s), and that is why the criminal cases registered against him in the years 1990 – 1993, were withdrawn by the earlier Government(s). The Accused Iqbal terrorized the people, he is a known name of terror in the area of District Saharanpur or Western State of Uttar Pradesh, due to which, no FIR(s)/*

Criminal cases were registered against the Accused Iqbal and his family members.

- ***LOOK OUT NOTICES:*** *The accused Iqbal is absconding from the process and the number of Look Out Circulars were issued against him. But the Accused Iqbal has not appeared even once in any case and has already absconded. A person who does not cooperate with the investigation, no relief can be granted to him.*
- ***NOTICES U/S SECTION 41:*** *A large number of notices under section 41A Cr.P.C. have been issued in a large number of cases. were issued to the accused Iqbal @ Bala, despite the service of notices, the Accused Iqbal neither appeared nor joined the investigation in any criminal case.*
- ***HISTORY SHEETER GANGSTER GANG LEADER :*** *The Accused Haji Iqbal @ Mohd. Iqbal @ Bala is a history-sheeter, gang leader, known name of terror, if any relief to be given to such type of criminals, who are publicly involved in rape cases, dacoity cases, fraud cases, land grabbing cases, extortion cases etc will send a wrong message/signal to the society and those persons/victims who come against these wrongdoers will never get justice and no one will ever raise their voices against these criminals in future.*
- *So far as concerned, admitted with the change of Government, complainant/terrified people, aggrieved peoples, have been able to come forward to lodge or register complaints against the Accused Iqbal. Due to illegal support of earlier Government(s), no complaint or criminal cases were registered against them. Now, they have come forward to register their grievances. In the present Government, the number of aggrieved People, Terrified People/Complainant(s) have been able to come forward to register or raise a voice against the Accused Iqbal. On the basis of criminal complaint(s) actions were taken against the Accused Iqbal and his family members.*
- *Even, if these are false cases, the honest or law abiding persons should join the investigation but the accused Iqbal is evading*

all notices and has not joined any investigation in any criminal case, and hence Look Out Notices have been issued.

- *It is pertinent to mention here that in all criminal cases, the complainants are different and the crime is different and some accused are also different.*
- *Further, it is pertinent to mention that the Accused Iqbal and his family regularly threatened the witnesses.*
- *The Accused Iqbal should be called upon to submit and appear before this Hon'ble Court or any court of law.*
- *The Accused Iqbal is a land mafia, sand mafia, rapists, gangster.*
- *The Accused Iqbal started committing fraud, theft and robbery cases in the initial days. Eventually, he became involved in the illegal mining cases and became a gang leader. Thereafter, the Accused Iqbal started to grab the forest land as well as government land in the District of Saharanpur. His family members and close associates also started to grab the land of the poor people.*
- *The Accused Mohd. Iqbal @ Bala is the mining mafia in western part of state of Uttar Pradesh and several number of criminal cases are registered against him and his family members.*
- *The Accused Mohd. Iqbal, Resident of District Saharanpur and Ex-Member, Uttar Pradesh Legislative Council (BSP MLC) is involved in the various criminal activities. The main allegations against Mohd. Iqbal are as follows:*
- *Amassed disproportionate assets;*
- *Incorporated a number of sham companies under the Companies Act, 1956, many of which have dummy directors or fictitious shareholders;*
- *Used Golbal University in Saharanpur (located in exceeding area more than 700 acres, where he is the founder Chancellor and managed by the Abdul Waheed Educational and Charitable Trust, a trust set up in in his father's name with his family members as its trustees, for creating assets out of money illegally earned through the mining contracts.*

- *The Accused Haji Iqbal @ Bala and his family members are involved in illegal mining cases, land grabbing cases, fraud cases and other criminal cases including rape, dacoity and others.*
- *The Accused Iqbal @ Bala, being Gang leader, and his gang members are criminal minded persons and indulges in anti-social activities and the Petitioners, to gain the illegal money, are involved in illegal mining business, grabbing the government and non-government land by taking illegal possession.*
- *It is submitted that the fact that the complaints may have been initiated by reason of political vendetta is not in itself ground for quashing the criminal proceedings.*
- *That the section 482 of the Cr.P.C. provides:- "482. Saving of inherent powers of 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."*
- *That this Hon'ble Court has held in **Monica Kumar (Dr.) v. State of U.P.** reported as (2008) 8 SCC 781, that inherent jurisdiction under Section 482 of the Cr. P. C has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.*
- *That further, it is pertinent to mention that this Hon'ble Court has held in case **Mrs. Dhanalakshmi Vs R. Prasanna Kumar,** reported as AIR 1990 SC 494 that in exceptional cases, to prevent of the powers of Court, the High Court might in exercise of its inherent powers under section 482 Cr. P.C. quash criminal proceedings. However, interference would only be justified when complaint did not disclose any offence, or was patently frivolous, vexatious or oppressive.*

In the present case, the FIR/Crime No. 122/2022 U/s 376, 323, 354(A) IPC & Section 7, 8 of POCSO Act, 2012 was registered at P.S. Mahila Thana, District Saharanpur disclosed the glaring facts and there are serious allegations against the Accused Iqbal and other accused. The facts of the FIR No. 122 of 2022 prima facie reveals commissions of cognizable offence.

The Accused Haji Iqbal @ Bala has been involved in more than 45 criminal cases including rape cases, illegal mining, land grabbing, fraud cases, assault cases and other criminal cases since 1990. The first FIR was registered against the Accused Iqbal in 1990 i.e. FIR No. 57 of 1990 U/s 379, 411 IPC and Section 26 of Forest Act at Mirzapur Police Station. However, due to earlier Government(s) supports, no legal actions were taken against the Accused Iqbal and his family members. The following criminal cases are registered against the Accused Iqbal are as follows:-

Sr. No.	FIR/Crime No.	Under Section	Police Station	District
1.	57 of 1990	379, 411 IPC and section 26 Forest Act	Mirzapur	Saharanpur
2.	53 of 1991	379, 411 IPC and section 4/10 Forest Act	Chilkana	Saharanpur
3.	217 of 1993	147, 323, 504, 506 IPC	Behat	Saharanpur
4.	302 of 2016	420, 467, 468, 471 IPC	Ecotech third	Gautambudh Nagar
5.	196 of 2017	420, 406, 506 IPC	Mirzapur	Saharanpur
6.	246 of 2017	452, 323, 504, 506, 354, 147, 148, 386, 420, 467, 468, 471, 120B IPC	Sadar Bajar	Saharanpur
7.	39 of 2018	420, 467, 468, 471 IPC	Janakpuri,	Saharanpur
8.	52 of 2018	147, 148, 149, 352, 504, 147, 148, 386, 420, 467, 468, 471, 120B IPC Section 3(2)(5)A SC/ST Act and Section 7 Criminal Law Amendment Act	Sadar Bajar	Saharanpur
9.	65 of 2018	403, 447, 506, 120B IPC	Mirzapur	Saharanpur
10.	165 of 2018	2/3 Gangster Act	Mirzapur	Saharanpur
11.	177 of 2019	420, 504, 506, 467, 468, 471 IPC	Mirzapur	Saharanpur
12.	178 of 2019	406, 342, 392, 504, 506, 354 IPC	Mirzapur	Saharanpur

13.	587 of 2019	120B,167, 467, 468, 471 IPC	Sadar Bajar	Saharanpur
14.	519 of 2021	420, 466, 467, 468, 471, 120B IPC	Behat	Saharanpur
15.	83 of 2022	2/3 Gangster Act	Mirzapur	Saharanpur
16.	97 of 2022	504, 506, 386 IPC	Mirzapur	Saharanpur
17.	101 of 2022	504,506 IPC	Mirzapur	Saharanpur
18.	102 of 2022	420, 467, 468, 471 IPC	Mirzapur	Saharanpur
19.	89 of 87-88		Badkala Forest Range	
20.	29 of 89-90		Badkala Forest Range	
21.	173 of 89-90		Badkala Forest Range	
22.	53 of 91	4/10 Forest Act	Behat	Saharanpur
23.	70 of 91-92		Behat	Saharanpur
24.	71 of 91-92		Behat	Saharanpur
25.	72 of 91-92		Behat	Saharanpur
26.	103 of 1992	379, 411 IPC and 26 of Forest Act	Behat	Saharanpur
27.	104 of 1994	379, 411 IPC and section 26 of Forest Act	Behat	Saharanpur
28.	105 of 1992	379, 411 IPC and section 26 of Forest Act	Behat	Saharanpur
29.	32 of 2001	147, 148, 306 IPC	Yamuna Nagar,	Yamuna Nagar, Haryana

FIR No. 224 of 2022 U/s 395, 504, 506, 323 IPC:-

c) The Petitioners and other accused robbed the Complainant and his brother and got the signature on stamp papers of the aforementioned land forcefully.

d) Further, it was alleged in that due to terror of the Petitioners and their family, no other family members have supported to lodge the complaint, but after seeing that the other aggrieved persons are taking action against the Petitioners and their family members, the complainant decided to lodge the complaint against the Petitioners and other accused persons for the said criminal incident.

e) The Investigation Officer also recorded the statement of the independent witnesses and collected the other material evidence against the Petitioners and other accused persons, which prima facie shows that the Petitioners ad other accused persons have committed the serious offences.

f) The Investigation has been completed and chargesheet is ready to file against the Petitioners but due to stay order dated 28.11.2022 of this Hon'ble Court, the chargesheet could not be submitted.

SUBMISSIONS IN RESPECT OF DELAY

a) The impugned first information report prima facie reveals commission of cognizable offences and which inspire confidence that it is clear from the contents of the FIR that serious crime was committed by the Petitioners and other accused persons.

b) The Dacoity is defined under section 391 IPC, which stipulates that when five or more persons conjointly or attempt to commit a robbery or, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity.

c) Further, the robbery has defined under section 390 IPC, which stipulates that Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

In the present case, the other accused persons (total 6 accused persons) have looted & extorted the complainant. The contents of the FIR prima facie reveals that the Complainant, when they visited the house of the Petitioners, he was looted and wrongful restrained by the Petitioners. The petitioners and the other accused persons, as such, prima facie involved in the offences as mentioned in the FIR.

d) *Recently, this Hon'ble Court has held in case* ***Mahendra Prasad Tiwari Vs Amit Kumar Tiwari & Anr*** *reported as 2022 SCC Online SC 1057 held that delay is registration of the FIR is not a ground to discharge.*

e) *This Hon'ble Court has held in case* ***Thakur Ram v. State of Bihar****, reported as (1966) 2 SCR 740, that barring a few exceptions, in criminal matters the party who is treated as the aggrieved party is the State which is the custodian of the social interests of the community at large and so it is for the State to take all the steps necessary for bringing the person who has acted against the social interests of the community to book.*

f) *This Hon'ble Court has held in case* ***Sheonandan Paswan v. State of Bihar,*** *(1987) 1 SCC 288*

17. It is undoubtedly true that the prosecution against Dr. Jagannath Mishra was initiated by the successor government of Karpoori Thakur after Dr. Jagannath Mishra went out of power. But that by itself cannot support the inference that the initiation of the prosecution was actuated by political vendetta or mala fides because it is quite possible that there might be material justifying the initiation of prosecution against Dr. Jagannath Mishra and the successor government might have legitimately felt that there was a case for initiation of prosecution and that is why the prosecution might have been initiated. There would be nothing wrong on the part of the successor government in doing so and the prosecution cannot be said to be vitiated on that account. This is precisely what Hidayatullah, J. speaking for the Constitution Bench pointed out in Krishna Ballabh Sahay v. Commission of Enquiry [AIR 1969 SC 258 : (1969) 1 SCR 387, 393 : 1969 Cri LJ 520] :

> *"The contention that the power cannot be exercised by the succeeding Ministry has been answered already by this Court in two cases. The earlier of the two has been referred to by the High Court already. The more recent case is P.V. Jagannath Rao v. State of Orissa [AIR 1969 SC 215 : (1968) 3 SCR 789] . It hardly needs any authority to state that the inquiry will be ordered not by the Minister against himself but by someone else. Where a Ministry goes out of office, its successor may consider any glaring charges and may, if justified, order an inquiry. Otherwise, each Ministry will become a law unto itself and the corrupt conduct of its Ministers will remain beyond scrutiny."*

These observations afford a complete answer to the contention urged on behalf of Dr. Jagannath Mishra that this Court should not interfere with the withdrawal of the prosecution because the successor government of Karpoori Thakur or Sheonandan Paswan was actuated by political motivation or vendetta."

9. Ms. Garima Prasad brought to the notice of this Court that the investigation has been completed and charge sheet is ready to be filed against the appellants and other co-accused, however, due to the interim order passed by this Court on 28.11.2022, the Investigation Officer has not been able to file the charge sheet before the concerned trial court.

ANALYSIS

10. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following questions fall for the consideration by this Court:-

    1. Whether the plain reading of the FIR discloses commission of the offence of dacoity punishable under Section 395 of the IPC? To put it in other words, even if the entire case of the prosecution is believed to be true, whether the ingredients to constitute the offence of dacoity punishable under Section 395 of the IPC are disclosed?

    2. Whether any case of criminal intimidation punishable under Sections 504 and 506(2) of the IPC is made out?

3. Whether the allegations levelled in the FIR inspire any confidence considering the fact that the FIR was lodged in the year 2022 for the alleged offence of the year 2021 and more particularly, without furnishing any details as regards the date and time of the alleged incident?

4. Whether the case on hand falls within any one of the parameters laid down by this Court in the case of ***State of Haryana v. Bhajan Lal,*** AIR 1992 SC 604, for the purposes of quashing the criminal case?

DISCUSSION

OFFENCE OF DACOITY:-

11. The offence of dacoity falls within Chapter XVII of the IPC which relates to Offences Against Property. Section 390 explains what is "robbery". It explains, when theft is robbery and when extortion is robbery. Section 390 along with illustrations reads thus:-

"Section 390. Robbery.—*In all robbery there is either theft or extortion.*

When theft is robbery.—*Theft is "robbery" if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.*

When extortion is robbery.—*Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.*

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to filing it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying "Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child."

12. Section 391 of the IPC defines "dacoity". Section 391 reads thus:-

"Section 391. Dacoity. — *When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity"."*

13. Section 395 provides for punishment for the offence of dacoity. Section 395 reads thus:-

"Section 395. Punishment for dacoity. — *Whoever commits dacoity shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine."*

14. Theft amounts to 'robbery' if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint. Before theft can amount to 'robbery', the offender must have voluntarily caused or attempted to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint. The second necessary ingredient is that this must be in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft. The third necessary ingredient is that the offender must voluntarily cause or attempt to cause to any person hurt etc., for that end, that is, in order to the committing of the theft or for the purpose of committing theft or for carrying away or attempting to carry away property obtained by the theft. It is not sufficient that in the transaction of committing theft, hurt, etc., had been caused. If hurt, etc., is caused at the time of the commission of the theft but for an object other than the one referred to in Section 390, IPC, theft would not amount to robbery. It is also not sufficient that hurt had been caused in the course of the same transaction as commission of the theft.

15. The three ingredients mentioned in Section 390, IPC, must always be satisfied before theft can amount to robbery, and this has been explained in ***Bishambhar Nath v. Emperor***, A.I.R. 1941 Oudh 476, in the following words:-

*"The words **"for that end"** in sec.390 clearly mean that the hurt caused by the offender must be with the express object of facilitating the committing of the theft, or must be caused while the offender is committing the theft or is carrying away or is attempting to carry away the property obtained by theft. It does not mean that the assault or the hurt must be caused in the same transaction or in the same circumstances."*

16. In ***Karuppa Gounden v. Emperor***, A.I.R. 1918 Madras 821, which followed two Calcutta cases of ***Otaruddi Manjhi v. Kafiluddi Manjhi,*** (1900-01) 5 C.W.N. 372, and ***King Emperor v. Mathura Thakur***, (1901-02) 6 C.W.N. 72, it has been observed at page 824 as follows:-

"Now it is our duty to give effect to the words "for that end". It would have been open to the legislature to have used other words which would not raise the difficulty that arises here. The Public Prosecutor has been forced to argue that "for that end" must be read as meaning 'in those circumstances'. In my opinion we cannot do that in construing a section in the Penal Code. Undoubtedly, words 'in those circumstances' would widen the application of the section and we are not permitted to do that. The matter has been considered in two judgments of the Calcutta High Court one of which is reported as Otaruddi Manjhi v. Kafiluddi Manjhi (1900-01) 5 C.W.N. 372. Their Lordships put the question in this way:

> "It seems to us that the whole question turns upon the words "for that end". Was any hurt or fear of instant hurt, that was caused in the present case, caused for the end of the commission of the theft? We think not. It seems to us that whatever violence was used for the purpose of dispossessing the persons who were already in possession of the premises in question and had no relation to the commission of theft, although theft was committed at the same time."

(Emphasis supplied)

17. Ordinarily, if violence or hurt is caused at the time of theft, it would be reasonable to infer that violence or hurt was caused for facilitating the commission of the theft or for facilitating the carrying away of the property stolen or for facilitating the attempt to do so. But there may be something in the evidence to indicate that hurt or violence was caused not for this purpose but for a different purpose. We are of the view that prosecution has blindfoldedly and without understanding the true purport of the offence of "dacoity" registered the FIR for the offence punishable under Section 395 of the IPC and proceeded to even prepare charge sheet for the offence of dacoity.

18. Even if we believe or accept the entire case put up by the first informant, none of the ingredients to constitute the offence of dacoity are disclosed. Let us once again recapitulate the case of the first informant. The incident is alleged to have occurred at the house of the appellant No. 2. It is the first informant and his brother who are said to have visited one fine day the house of the appellant No. 2.

At that point of time, the other co-accused are also shown to be present. There is no good or plausible explanation coming from the first informant as to why he was carrying Rs. 2 Lakh in his pocket. The entire case put up by the first informant appears to be fabricated. Let us assume for the time being that the first informant was in fact carrying Rs. 2 Lakh in his pocket and at the time of alleged incident, the amount was forcibly taken away by the accused persons, whether this taking away of Rs. 2 Lakh from the pocket of the first informant would fall within the ambit of the words *"for that end"* occurring in Section 390 of the IPC. The answer is an emphatic "No". Even according to the first informant, the dispute was one relating to the agricultural land. The first informant says that he is the lawful owner of the land in question, whereas, according to him, the accused persons are wrongly claiming to be the lawful owners of the land. With a view to settle this dispute, the first informant and his brother are said to have visited the house of the appellant No. 2 on their own free will and volition. It is only after reaching the house of the appellant No. 2 that the entire incident is alleged to have occurred. We should be mindful of the fact that we are dealing with provisions of a criminal statute, like the IPC. The provisions of any criminal statute are to be construed and interpreted strictly.

19. The general rule governing the interpretation of penal statute is that it must be strictly construed. Strict interpretation in the words of Crawford connotes:-

"If a statute is to be strictly construed, nothing should be included within its scope that does not come clearly within the meaning of the language used. Its language must be given exact and technical meaning with no extension on account of implications or equitable considerations; or has been aptly asserted, its operation must be confined to cases coming clearly within the letter of the statute as well as within its spirit and reason. Or stated perhaps more concisely, it is close and conservative adherence to the literal or textual interpretation."

20. According to Sutherland, *by the rule of strict construction it is not meant that the statute shall be stringently or narrowly construed but it means that everything shall be excluded from its operation which does not clearly come within the scope of the language used.*

21. When it is said that all penal statutes are to be construed strictly, it only means that the Court must see that the thing charged is an offence within the plain meaning of the words used and must not strain the words.

22. In the circumstances referred to above, we have reached the conclusion that Section 395 of the IPC is not applicable to the case on hand.

SECTIONS 503, 504 AND 506 OF THE IPC

23. Chapter XXII of the IPC relates to Criminal Intimidation, Insult and Annoyance. Section 503 reads thus:-

*"**Section 503. Criminal intimidation. —** Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.*

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation."

Section 504 reads thus:-

*"**Section 504. Intentional insult with intent to provoke breach of the peace.—** Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*

Section 506 reads thus:-

*"**Section 506. Punishment for criminal intimidation. —** Whoever commits, the offence of criminal intimidation shall be punished with*

imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.— *And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."*

24. An offence under Section 503 has following essentials:-

    1) Threatening a person with any injury;

        (i) to his person, reputation or property; or

        (ii) to the person, or reputation of any one in whom that person is interested.

    2) The threat must be with intent;

        (i) to cause alarm to that person; or

        (ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

        (iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

25. Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case

is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised self control or having been subjected to abject terror by the offender. In judging whether particular abusive language is attracted by Section 504, IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.

26. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely uses abusive language against the complainant. In ***King Emperor v. Chunnibhai Dayabhai***, (1902) 4 Bom LR 78, a Division Bench of the Bombay High Court pointed out that:-

"*To constitute an offence under Section 504, I.P.C. it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds.*"

(Emphasis supplied)

27. A bare perusal of Section 506 of the IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.

28. In the facts and circumstances of the case and more particularly, considering the nature of the allegations levelled in the FIR, a *prima facie* case to constitute the offence punishable under Section 506 of the IPC may probably could be said to have been disclosed but not under Section 504 of the IPC. The allegations with respect to the offence punishable under Section 504 of the IPC can also be looked at from a different perspective. In the FIR, all that the first informant has stated is that abusive language was used by the accused persons. What exactly was uttered in the form of abuses is not stated in the FIR. One of the essential elements, as discussed above, constituting an offence under Section 504 of the IPC is that there should have been an act or conduct amounting to intentional insult. Where that act is the use of the abusive words, it is necessary to know what those words were in order to decide whether the use of those words amounted to intentional insult. In the absence of these words, it is not possible to decide whether the ingredient of intentional insult is present.

29. However, as observed earlier, the entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in the case of ***Bhajan Lal*** (supra). The parameters are:-

"(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 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."

In our opinion, the present case falls within the parameters Nos. 1, 5 and 7 resply referred to above.

30. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for

the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

31. In ***State of Andhra Pradesh v. Golconda Linga Swamy,*** (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held:-

"5. …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.***

6. In ***R.P. Kapur v. State of Punjab****, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (AIR p. 869, para 6)*

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) ***where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.***

7. ***In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 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.*** *Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death….."*

(Emphasis supplied)

DELAY IN LODGING THE FIR

32. The alleged incident is said to have occurred sometime in the year 2021. There is no reference to any date or time of the incident in

the FIR. The allegations are too vague and general. Had it been the case of prompt registration of the FIR, probably the police might have been able to recover Rs. 2 Lakh from the possession of the accused persons alleged to have been forcibly taken away from the pocket of the first informant. The FIR also talks about a document on which the first informant and his brother were forced to put their signatures. We wonder, whether the investigating agency was in a position to collect or recover any such document from the accused persons containing their signatures in the course of the investigation, more particularly when the State says that the investigation is over and the charge sheet is also ready. In the absence of all this material, how is the State going to prove its case against the accused persons. The FIR in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The object of insisting upon lodging of the FIR to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as names of the eye witnesses present at the scene of occurrence.

33. In the aforesaid context, we may clarify that delay in the registration of the FIR, by itself, cannot be a ground for quashing of the FIR. However, delay with other attending circumstances emerging from the record of the case rendering the entire case put up by the prosecution inherently improbable, may at times become a good ground to quash the FIR and consequential proceedings. If the FIR, like the one in the case on hand, is lodged after a period of more than one year without disclosing the date and time of the alleged incident and further without any plausible and convincing explanation for such delay, then how is the accused expected to defend himself in the trial. It is altogether different to say that in a given case, in the course of investigation the investigating agency may be able to ascertain the date and time of the incident, etc. The recovery of few incriminating articles may also at times lend credence to the allegations levelled in the FIR. However, in the absence of all such materials merely on the basis of vague and general allegations levelled in the FIR, the accused cannot be put to trial.

34. The learned Additional Advocate General appearing for the State vehemently submitted that considering the gross criminal antecedents of the appellants before us, the criminal proceedings may not be quashed. The learned Additional Advocate General appearing for the State in her written submissions has furnished details in regard to the antecedents of the appellants. A bare look at the chart may give an impression that the appellants are history sheeters and hardened criminals. However, when it comes to quashing of the FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings. An accused has a legitimate right to say before the Court that howsoever bad his antecedents may be, still if the FIR fails to disclose commission of any offence or his case falls within one of the parameters as laid down by this Court in the case of ***Bhajan Lal*** (supra), then the Court should not decline to quash the criminal case only on the ground that the accused is a history sheeter. Initiation of prosecution has adverse and harsh consequences for the persons named as accused. In ***Directorate of Revenue and another v. Mohammed Nisar Holia***, (2008) 2 SCC 370, this Court explicitly recognises the right to not to be disturbed without sufficient grounds as one of the underlying mandates of Article 21 of the Constitution. Thus, the requirement and need to balance the law enforcement power and protection of citizens from injustice and harassment must be maintained. It goes without saying that the State owes a duty to ensure that no crime goes unpunished but at the same time it also owes a duty to ensure that none of its subjects are unnecessarily harassed.

35. In the overall view of the matter, we are convinced that the continuation of the criminal case arising from the FIR No. 224 of 2022 registered at Mirzapur Police Station, Saharanpur will be nothing but abuse of the process of the law. In the peculiar facts and circumstances of this case, we are inclined to accept the case put up on behalf of the appellants herein.

36. In the result, this appeal succeeds and is hereby allowed. The impugned order passed by the High Court of Judicature at Allahabad is hereby set aside. The criminal proceedings arising from FIR No. 224 of 2022 dated 19.09.2022 registered at Police Station Mirzapur, Saharanpur, State of U.P. are hereby quashed.

37. It is needless to clarify that the observations made in this judgment are relevant only for the purpose of the FIR in question and the consequential criminal proceedings. None of the observations shall have any bearing on any of the pending criminal prosecutions or any other proceedings.

Headnotes prepared by: Nidhi Jain *Result of the case :* Appeal allowed.