

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(Cr.) No. 571 of 2022

Manjunath @ Manjunath Bhajantri, aged about 43 years, son of Hanamantappa Bhajantri, resident of Circular Road, P.O.-Deoghar, P.S.-Deoghar, District-Deoghar (Jharkhand)

..... ... Petitioners

Versus

1. The State of Jharkhand through Principal Secretary, Department of Home, Jail and Disaster Management, having its office at Project Bhawan, Dhurwa, P.O. Jagannathpur, P.S. Dhurwa, District Ranchi.

2. Union of India through office of Commissioner, Delhi Police, having its office at Jaishing Road, New Delhi, P.O. G.P.O, New Delhi, P.S. Connaught Palace, District New Delhi.

3. Superintendent of Police, Deoghar, having its office at Deoghar, P.O. Deoghar, P.S. Deoghar, District Deoghar.

4. Nishikant Dubey, son of not known to the petitioner resident of 18. Gurudwara, Rakabganj Road, New Delhi, P.O. New Delhi, P.S. New Delhi, District New Delhi.

..... ... Respondents

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner	:	Mr. Indrajit Sinha, Advocate.
	:	Mr. Ajay Kumar Sah, Advocate.
For the State	:	Mr. Md. Asghar, A.C. to Sr. S.C.-II.
For the Union of India	:	Mr. Shiv Kumar Sharma, Senior Panel Counsel
For the Resp. No. 4	:	Mr. Amit Sinha, Advocate.

19/ 12.08.2024 Heard Mr. Indrajit Sinha, learned counsel appearing for the petitioner, Mr. Md. Asghar, learned counsel appearing for the respondents-State, Mr. Shiv Kumar Sharma, learned counsel for the Union of India and Mr. Amit Sinha, learned counsel appearing for the informant-respondent No. 4.

2. Initially this writ petition was filed for quashing of the Zero

FIR dated 03.09.2022 registered with North Avenue Police Station, New Delhi. Subsequently, the said FIR was transferred to Kunda Police Station in the district of Deoghar, which was registered as Kunda P.S. Case No. 134 of 2023, which was challenged by way of I.A. No. 7321 of 2023 and after hearing the parties, the said I.A. was allowed by order dated 16.08.2023, as such, the Kunda P.S. Case No. 134 of 2023 is also under challenge.

3. Pursuant to the above, Kunda P.S. Case No. 134 of 2023 has been registered alleging therein that the informant namely Dr. Nishikant Dubey, is Member of Parliament (Lok Sabha) and also Chairman of Advisory Committee, Deoghar Airport. On 31.08.2022 at about 5:15 p.m. the informant went to the Deoghar Airport to take flight for Delhi Airport, and where he was accompanied by Manoj Tiwary, MLA and also member, Airport Authority of India. Due to non-availability of night landing facility at Deoghar, the flights are getting interrupted, and one matter is sub judice before the Hon'ble High Court of Jharkhand in this regard. The matter was to be heard by the Hon'ble High Court in the month of August, 2022, and, therefore, the informant on consultation decided to meet Director of Airport to discuss / enquire about the case. Due to paucity of time, the petitioner decided to walk bare foot and while he was on his way, the officers of Jharkhand Police stopped the informant and abuses the son of the informant who were bringing slippers for the informant and Jharkhand Police has also threatened to kill him. The informant received information that the officers of Jharkhand Police interrupted the work of the informant upon the orders of the Deputy Collector, Deoghar. This fact was disclosed on the next day when they, without any permission, entered into the restricted area of DRDO at Deoghar, Airport, the permission of which could only be given by the office of Hon'ble the Prime Minister. The Director of Airport tried to make them understand, however, they

showed their influence. Interruption in my work, entering into the area of DRDO, showing influence to the Director of Airport, compromising the security of the nation by the Deputy Collector of Deoghar, criminal trespass and conspiracy to kill the informant, appropriate case may be registered. On such information a zero First Information Report was registered and sent to SHO, P.S. Kunda through SSP, Deoghar, Jharkhand for further necessary Investigation.

3. Mr. Indrajit Sinha, learned counsel appearing for the petitioner submits that the alleged occurrence has said to be occurred on 31.08.2022 and for the act of the respondent No. 4, this petitioner who happened to be the Deputy Commissioner of Deoghar at that relevant time, has directed to register the FIR, which was registered as Kunda P.S. Case No. 169 of 2022. He submits that the said Kunda P.S. Case No. 169 of 2022 was challenged before this court in W.P. (Cr.) No. 448 of 2022 along with its analogous cases and the said FIR was already quashed by this court by order dated 13.03.2023. He further submits that thereafter the Zero FIR was registered by the respondent No. 4 at Delhi, which was subsequently transferred to the Kunda P.S. Deoghar, which was registered as Kunda P.S. Case No. 134 of 2023.

4. By way of drawing the attention of this court to the contents of the FIR, learned counsel appearing for the petitioner submits that the said case is registered under Section 353, 448, 201, 506 and 124-A of the Indian Penal Code and Section 7 of the Official Secret Act, 1923. He submits that so far as Section 124-A of the Indian Penal Code is concerned, the case was not registered on that Section in Kunda P.S. He further draws the attention of the court towards Section 353 of the Indian Penal Code and submits that unless it is alleged that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as public servant, no case under that Section

is made out. To buttress his argument, he relied in the case of *Manik Taneja & Anr. Versus State of Karnataka & Anr.*, reported in (2015) 7 SCC 423 and he made stress on para-10 of the said judgment, which reads as under:-

"10. So far as the issue regarding the registration of FIR under Section 353 IPC is concerned, it has to be seen whether by posting a comment on the Facebook of the traffic police, the conviction under that Section could be maintainable. Before considering the materials on record, we may usefully refer to Section 353 IPC which reads as follows:-

"353. Assault or criminal force to deter public servant from discharge of his duty.- Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

5. Learned counsel appearing for the petitioner further draws the attention of the court to Section 506 of the Indian Penal Code and submits that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened and if such ingredients are not there, Section 506 of the IPC is not attracted and to buttress his argument, he again relied in the said case of *Manik Taneja (Supra)* and much emphasis has been placed on paras-11 and 12 of the said judgment, which reads as under:-

"11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:-

"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."

A reading of the definition of "Criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that

there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.”

6. Relying on the above judgment, he submits that no case under the aforesaid Sections are made out and in view of that FIR has maliciously been lodged against the petitioner, who happened to be the then Deputy Commissioner of Deoghar.

7. Learned counsel appearing for the petitioner further submits that no case under Section 448 of the Indian Penal Code is made out and to elaborate his arguments, he draws the attention of the court to Section 442 of the IPC and submits that house trespass can only be made out if the entry was made with such criminal intent. He submits that Section 448 of the IPC is punishment Section under the IPC in view of this, the case under Section 448 of the Indian Penal Code is not made out. He submits that only allegation is made that on the instruction of the petitioner, who was the then Deputy Commissioner of Deoghar District the FIR was registered, which itself suggests that the petitioner was not present on the spot and the case was registered at New Delhi, which was subsequently transferred to Kunda P.S. within the district of Deoghar.

8. Mr. Sinha further submits that so far as Section 201 of the Indian Penal Code is concerned, that Section is also not attracted, as the petitioner has not tried to disappear any of the evidence.

9. Learned counsel appearing for the petitioner further draws the attention of the court to Section 7 of the Official Secrets Act and submits that the petitioner was not present on the spot, the said Section

itself is not attracted. By way of referring Section 13 of the said Act, he submits that the cognizance can only be taken under that Section only if the complaint case is filed, however, in the case in hand, the Police Case has been registered.

10. On the above premises, learned counsel appearing for the petitioner submits that the entire criminal proceedings particularly the FIR registered against respondent No. 4 and others have already been quashed by this court in W.P. (Cr.) No. 448 of 2022 along with its analogous cases by order dated 13.03.2023 and after filing of the said F.I.R., the present case has been lodged. He submits that if a case of interference is made out, the High Court is competent to exercise the power under Section 482 Cr.P.C. or Article 226 of the Constitution of India. On these grounds, he submits that the entire criminal proceeding may kindly be quashed.

11. *Per contra*, Mr. Amit Sinha, learned counsel appearing for the informant-respondent No. 4 at the outset submits that the FIR can be quashed by the High Court, if on bare perusal of the same, no case is made out, however, in the present case, in the contents of the FIR, the case is made out, as such, this court may not exercise the power under Section 482 Cr.P.C. or Article 226 of the Constitution of India. He submits that there are line of judgments with regard to exercise of power under Section 482 Cr.P.C. or Article 226 of the Constitution of India and there are restrictions and the court is required to move with circumspection. On this point, he relied in the case of *Neeharika Infrastructure Pvt. Ltd. Versus State of Maharashtra & Ors.*, reported in **2021 SCC OnLine SC 315**.

12. Learned counsel appearing for the respondent No. 4 submits that the FIR cannot be quashed at this stage if the allegations are made out and to buttress his argument, he relied in the case of *Union of India & Ors. Versus B.R. Bajaj & Ors.*, reported in **(1994) 2 SCC 277**,

wherein the Hon'ble Supreme Court in para-8, held as follows:-

“8. In the instant case the High Court while interfering at the stage of FIR holding that the FIR did not disclose any offence, as a matter of fact, took into consideration several other records produced by Respondents 1 and 2 and also relied on the affidavit filed by Shri Banerjee and also on a letter written by the Director, State Lotteries. This approach of the High Court, to say the least, to some extent amounts to investigation by the court whether the offences alleged in the FIR are made out or not. In the FIR it is clearly mentioned that a false note was recorded by Respondent 1 with a view to help M/s Om Prakash & Co. and its sister concerns. It is also mentioned in the FIR that the information so far received disclosed that before the agreement dated November 7, 1985 was signed between M/s H.K. Chugh & Co. and the Council, M/s V. Kumar Lotterywala sent a telegram and also complaint alleging malpractices in the awarding of the contract and the same was also sent to the President and Shri B.R. Bajaj. However, even after receiving such a telegram, Shri B.R. Bajaj did not take any steps to stop the loss to the Council because of his deep involvement in the conspiracy and it is also clearly mentioned that the total loss caused to the Council and gain to the accused persons is to the tune of Rs 1,43,34,000 when compared to the offer made by the highest tenderer M/s Bharat & Co. or at least Rs 1,13,34,000 when compared to the next highest tenderer M/s V. Kumar Lotterywala. These are some of the important allegations in the FIR which make out a cognizable offence at that stage and the registration of an FIR is only the beginning of the investigation. That being the case, the High Court has grossly effect in quashing the FIR itself when several aspects of the allegations in the FIR had still to be investigated. The learned Judge of the High

Court while coming to the conclusion that the allegations in the FIR do not disclose any offence, has taken into consideration several aspects including the guidelines, normal duty of Shri B.R. Bajaj etc. and went further and investigated whether the offences under Section 120-B read with Sections 418, 468 IPC and Sections 5(2) read with 5(1)(d) of the Prevention of Corruption Act have been made out. Suffice it to say that the learned Judge has treated the whole matter as though it was an appeal against the order of conviction and that should never be the approach in exercising the inherent power under Section 482 CrPC particularly at the stage of FIR when the same discloses commission of a cognizable offence which had still to be investigated thoroughly by police. We do not think that in this case we should make a further detailed consideration about the contents of the FIR. We are satisfied that this is not at all a fit case for quashing the FIR under Section 482 CrPC. Accordingly the appeal is allowed.”

13. Relying on this judgment, he submits that case is made out, as such, in view of the ratio of the judgment in the above case, this court may not interfere in the matter and also may not quash the entire criminal proceedings against the petitioner.

14. Learned counsel appearing for the respondent No. 4 further submits that the FIR is not an encyclopedia and every contents cannot be there in the FIR and even on the information only, the FIR can be lodged, that can be maintained as has been held by the Hon'ble Supreme Court in the case of *Hemraj & Anr. Versus State of Punjab*, reported in (2003) 12 SCC 241. On the same line, he further relied in the case of *Superintendent of Police, CBI & Ors. Versus Tapan Kumar Singh*, reported in (2003) 6 SCC 175 as well in the case of *Rakesh Bajaj Versus State NCT of Delhi & Ors.*, reported in (1994) 2 SCC 277.

15. Relying on these judgments, he submits that entire criminal proceedings may not be quashed, as the case is made out and that can be the subject matter of investigation, as such, this petition may kindly be dismissed.

16. Learned counsel appearing for the respondents-State submits that after receiving the Zero FIR, the Kunda P.S. of Deoghar district has registered the FIR, which is being investigated. He submits that the investigation is still going on as such, this case is at the premature stage.

17. Learned counsel appearing for Union of India submits that his role is restricted only at the initial stage for transferring the Zero FIR and at present his role is nothing to do with that.

18. In view of the above submissions of learned counsel appearing for the parties, court has gone through the materials on record and finds that there are case and counter case by the petitioner and the respondent No. 4 and the respondent No. 4, happened to be the sitting Member of Parliament. The case registered by the Deoghar Police, being Kunda P.S. Case No. 169 of 2022, by the petitioner has already been quashed by this court in W.P. (Cr.) No. 448 of 2022 along with its analogous cases by order dated 13.03.2023. For the same occurrence, the present case has been lodged by the respondent No. 4 as a Zero FIR at New Delhi and subsequently, the said Zero FIR was transferred to the district of Deoghar, which was registered as Kunda P.S. Case No. 134 of 2023. Looking into the contents of the FIR, it is crystal clear that this petitioner was not present on the spot / at airport. In the FIR itself it has been admitted that the respondent No. 4 has proceeded to the office of Airport Directorate and allegations are made on the instigation of the petitioner, who was the then Deputy Commissioner of Deoghar District, the Jharkhand Police has tried to stop the respondent No. 4, the informant. Thus, from the contents of the

FIR, it is crystal clear that the petitioner was not present at the spot.

19. Section 353 of the Indian Penal Code is as under:-

“353. Assault or criminal force to deter public servant from discharge of his duty.—

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

20. So far Section 353 of the Indian Penal Code is concerned, that Section can only be attracted if the allegations were there that the petitioner has assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as public duty. Admittedly, the respondent No. 4 was not on official duty and petitioner was not present at the spot, in view of this, the criminal force was not utilized by this petitioner, as such, the case of the petitioner is fully covered in light of the judgment of the Hon’ble Supreme Court in the case of ***Manik Taneja & Anr. Versus State of Karnataka & Anr.***, reported in **(2015) 7 SCC 423**.

21. Section 506 of the Indian Penal Code is as under:-

“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.

22. For attracting Section 506 of the Indian Penal Code, the ingredients of Section 503 of the Indian Penal Code is required to be there and that must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person, then only that Section can be attracted. In the case in hand, such allegations are not there, as such, the case of the petitioner is further covered in light of paras-11 and 12 of the judgment in the case of ***Manik Taneja & Anr. (supra)***.

23. Section 201 of the Indian Penal Code is as under:-

“201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, ***if a capital offence.***—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; ***if punishable with imprisonment for life.***—and if the offence is punishable with [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; ***if punishable with less than ten years' imprisonment.***—and if the offence is punishable with imprisonment for any term

not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

24. Section 201 of the Indian Penal Code speaks of causing the disappearance of evidence of an offence or giving false information to screen the offender, however, in the case in hand, as the petitioner has not tried to disappear any of the evidence, as such, no case is made out under that section.

25. Section 448 of the Indian Penal Code speaks as under:-

“448. Punishment for house-trespass.—
Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.”

26. For making out of a case under Section 448 of the Indian Penal Code, the ingredients of Section 442 of the Indian Penal Code is required to be there, which is also lacking in the case in hand, as the petitioner was admittedly not present at the spot/ airport, how a person not present at the place of occurrence, can be charged of house trespass. In view of Section 442 of the IPC, the ingredients of that section is not made out.

27. Section 7 of the Official Secrets Act speaks of:-

“7. Interfering with officers of the police or members of the Armed Forces of the Union.—

(1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of the Armed Forces of the Union engaged on guard, sentry, patrol or other similar duty in relation to the prohibited place.

(2) If any person acts in contravention of the provisions of this section, he shall be

punishable with imprisonment which may extend to three years, or with fine, or with both.”

28. Looking into the above Section, it transpires that it can only be attracted when person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of the Armed Forces of the Union engaged on guard, sentry, patrol or other similar duty in relation to the prohibited place. In the present case, the petitioner was not present at the spot / airport.

29. Further Sub-Section (3) of Section 13 of the said Act, speaks that the cognisance can only be taken if the complaint case is filed, however, in the case in hand, the Police Case has been registered.

30. So far as the argument advanced by Mr. Amit Sinha, learned counsel appearing for the respondent No. 4 is concerned, the court is in agreement with his argument with regard to quashing of the F.I.R. and there is no doubt that there are line of judgments how to exercise the power under Section 482 Cr.P.C. or Article 226 of the Constitution of India. In the judgment relied by Mr. Amit Sinha, in the case of *Neeharika Infrastructure (Supra)*, the guidelines have been made how to proceed under Section 482 Cr.P.C. or Article 226 of the Constitution of India. In light of conclusion of *Neeharika Case (supra)*, in **para-80 (x)** it is crystal clear that in exceptional cases, where non-interference would result in miscarriage of justice, the court and the judicial process should not interfere at the stage of investigation of offences and if a case is made out, the court can exercise the power. There is no doubt, in quashing of a proceeding, the court is required to move slowly and with circumspection and if a case is made of quashing is made, not exercising the power is also an abuse of the process of law.

31. In the case of *Hemraj & Anr. (Supra)*, relied by the learned counsel appearing for the respondent No. 4, that is also not in dispute,

as any information provided and on the basis of which, the FIR can be registered and in the case in hand, on the information of the respondent No. 4, the FIR has been registered. So far as the other judgments relied by him in the case of ***Rakesh Bajaj (Supra)*** and in the case of ***Superintendent of Police (Supra)*** are concerned, that is well settled as the FIR is not the encyclopedia and in the investigation only, the further materials appeared.

32. Coming to the facts of the present case and what has been discussed hereinabove, it is a case and a counter blast between the petitioner and the respondent No. 4. The case registered by the Deoghar Police, being Kunda P.S. Case No. 169 of 2022, which was registered on 02.09.2022 has already been quashed by this court in W.P.(Cr.) No. 448 of 2022 and its analogous cases and subsequently, the Zero FIR was registered at New Delhi on 03.09.2022, thereafter it was transferred to Degohar, pursuant thereto Kunda P.S. Case No. 134 of 2023 was registered, which clearly suggests that maliciously the present case has been registered at New Delhi.

33. There are parameters of quashing of the FIR, however, on the allegations made in the FIR or complaint, it is found that it is absurd and inherently improbable, the court can exercise its power. Reference may be made to the case of case of ***M.N. Ojha & Ors. Versus Alok Kumar Srivastav & Anr.***, reported in (2009) 9 SCC 682, where in para-30, it has been held as under:-

“30. Interference by the High Court in exercise of its jurisdiction under Section 482 of Code of Criminal Procedure can only be where a clear case for such interference is made out. Frequent and uncalled for interference even at the preliminary stage by the High Court may result in causing obstruction in progress of the inquiry in a criminal case which may not be in the public interest. But at the same time the High Court cannot refuse to exercise its jurisdiction if the

interest of justice so required where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no fair-minded and informed observer can ever reach a just and proper conclusion as to the existence of sufficient grounds for proceeding. In such cases refusal to exercise the jurisdiction may equally result in injustice more particularly in cases where the Complainant sets the criminal law in motion with a view to exert pressure and harass the persons arrayed as accused in the complaint.”

34. In view of the above facts, reasons and analysis, the court comes to a conclusion that if such type of case has been brought to the knowledge of the High Court, the High Court is having more responsibility to examine the things and for that the court is required to read the things in between the lines, as has been held by the Hon’ble Supreme Court in the case of *Haji Iqbal @ Bala through SPOA Versus State of Uttar Pradesh*, reported in (2023) SCC Online (SC) 946.

35. Accordingly, the entire criminal proceedings, in connection with Kunda P.S. Case No. 134 of 2023, pending in the court of learned Judicial Magistrate, Deoghar, is hereby, quashed.

36. This petition is allowed and disposed of. Pending I.A., if any, stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Amitesh/-

[A.F.R.]