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MCRC-55549-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

ON THE 1st OF JULY, 2026MISC. CRIMINAL CASE No. 55549 of 2024*BABLU SEN**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Samar Singh Rajput - Advocate for the petitioner.

Ms. Geeta Yadav - Government Advocate for the respondent

No.1/State.

Shri Srajan Narang - Advocate for the respondent No.2.

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ORDER

This petition has been filed by the petitioner under Section 528 of BNSS/482 of Cr.P.C. for quashment of the FIR bearing Crime No.545/2024 registered at P.S. Bagaswaniya, District Bhopal (M.P.) for the offence punishable under Section 137(2) of BNS against him.

2. Brief facts of the case is that on 26.09.2024, at about 2:30 p.m., complainant (Respondent No. 2) sent her two minor daughters, aged about 9 years and 5 years, to a nearby shop to purchase household articles. It is alleged that the present petitioner enticed the nine-year-old girl into his car bearing registration No. MP04CG5590, having the inscription "Bablu Patrakar", and took her away. On receiving information from a neighbour's son regarding the vehicle, complainant searched for her daughter and found



her near New Mandir (Temple). The victim stated that the petitioner had taken her in his car after asking whether she was Ram's daughter and had told her that he would drop her at the residence of her uncle. Thereafter, the complainant lodged a report, on the basis of which FIR No. 545/2024 was registered against the present petitioner for offence punishable under Section 137(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. Learned counsel for the petitioner has submitted that petitioner did not kidnap the child. He merely asked the child whether she knew the house of one Ravi, after which the child sat in the car, and he dropped her off in front of a temple. It is further submitted that one Nilesh is the nephew of the present petitioner. The child's mother had previously lodged a report against Nilesh, which was registered as Crime No. 434 of 2024 under Sections 64(1) and 64(2)(m) of the Bharatiya Nyaya Sanhita (BNS) at P.S. Bagsewaniya, District Bhopal. In that matter, Nilesh was granted bail by the 10th Additional Sessions Judge vide order dated 24.08.2024. It is also submitted that due to prior enmity, a false case has been registered against the present petitioner. The allegations in the FIR are omnibus in nature, and no case is made out under Section 137(2) of the BNS. Therefore, it is prayed that the FIR and the consequential criminal proceedings arising from the said crime number be quashed.

4. Learned counsel for the complainant has submitted that the victim in this case is a child aged 9 years. The petitioner took the 9-year-old child without the consent of her lawful guardian; therefore, an offence under Section 137(2) of the BNS is clearly made out. It is further submitted that the



victim implicated the present petitioner in her statement recorded under Section 164 of the Cr.P.C. After investigation, charge-sheet has already been filed, and the matter is currently pending trial. Therefore, he prays for dismissal of this application.

5 . Learned Government Advocate for the respondent/State has submitted that 9-year-old child was forcibly abducted. She has deposed against the present petitioner in her statements recorded under Sections 161 and 164 of the Cr.P.C. It is further submitted that plea of previous enmity is a matter of defence which can be examined only during trial after appreciation of evidence. Consequently, there is sufficient prima facie evidence against the present petitioner to proceed with the trial.

6. Heard the learned counsel for the parties and perused the record.

7. This Court is of the considered opinion that while exercising the jurisdiction under Section 528 of BNSS, the Court is not expected to conduct a mini trial or meticulous appreciation of evidence for adjudication of disputed question of facts. The inherent jurisdiction is to be exercised aspiringly, which succumb action and only where the allegation even if accepted in their entirety, do not constitute any offence or where continuation of the proceeding would amount to abuse the process of law in Court.

8. The law with respect to quashment of an FIR is settled by the Hon'ble Supreme Court in large number of cases. The Hon'ble Supreme Court in a landmark judgment in the case of **State of Haryana vs Bhajanlal** reported in 1992 Supp (1) SCC 335 has laid down certain guidelines which



were subsequently reiterated by the Hon'ble Supreme Court in a judgment passed in the case of **Neeharika Infrastructure (P) Ltd. vs State of Maharashtra reported in (2021) 19 SCC 401** especially in paragraph 33, certain guidelines have been framed by the Hon'ble Supreme Court which read as follows :

"33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence.

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on.

33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the "rarest of rare cases" (not to be confused with the formation in the context of death penalty).

33.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.



33.6. Criminal proceedings ought not to be scuttled at the initial stage.

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.

33.9. The functions of the judiciary and the police are complementary, not overlapping.

33.10. Save 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.

33.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

33.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

33.13. The power under Section 482CrPC is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court.

33.14. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v.



Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], has the jurisdiction to quash the FIR/complaint.

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

33.16. The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or “no coercive steps to be adopted” and the accused should be relegated to apply for anticipatory bail under Section 438CrPC before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or “no coercive steps” either during the investigation or till the investigation is completed and/or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India.

33.17. Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482CrPC and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.



33.18. Whenever an interim order is passed by the High Court of “no coercive steps to be adopted” within the aforesaid parameters, the High Court must clarify what does it mean by “no coercive steps to be adopted” as the term “no coercive steps to be adopted” can be said to be too vague and/or broad which can be misunderstood and/or misapplied."

9. In view of the aforesaid judgment, the Hon'ble Supreme Court has clarified that when a prayer for quashment of the FIR is made by the alleged accused and the Court when it exercises powers under Section 482 of Cr.P.C., it has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The Court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

10. The Hon'ble Supreme Court in the case of **Teeja Devi vs State of Rajasthan** reported in (2014)15 SCC 221 has held as under:

"9. We have no hesitation in holding that in the facts of the case, the High Court was not justified in interfering with the police investigation and quashing the FIR. This is not at all a rare case. Without a thorough investigation, it is not possible or proper to hold whether the allegations made by the complainant are true or not. Hence the investigation should have been allowed to continue so that on filing of the report under Section 173 CrPC the affected party could pursue its remedy against the report in accordance with law. Keeping in view the fact that the criminal case was at the stage of investigation by the police the High Court was not justified in holding that the investigation of the impugned FIR is totally unwarranted and that the same would amount to gross abuse of the process of the court."



11. After going through the guidelines framed by the Hon'ble Supreme Court in **Neeharika Infrastructure** (supra) it is apparently clear that there is very limited scope of interference in a petition under Section 482 of Cr.P.C. seeking quashment of the FIR. The High Court should be vigilant and should interfere in rare of rarest cases where *prima facie* looking to the FIR no offence is made out against the concern. In the present case, in FIR, it is mentioned that petitioner enticed and took away the 9 years old girl forcibly in his car without the consent of his parents (law full guardian). The child in her statement under Sections 161 and 164 of the Cr.P.C., has deposed against the petitioner and support the prosecution case. At this stage, the Court is required only to examine that whether the allegations disclose the ingredients of the alleged offence or not.

12. Applying the aforesaid principle to the present fact of the case, this Court finds that allegations content in FIR and material collected during investigation disclose a *prima-facie* case under Section 137(2) of BNS.

13. Under these circumstances, this Court is of considered opinion that no case is made out warranting interference under the inherent powers.

14. The petition *sans* merit and is accordingly **dismissed**.

Certified copy as per rules.

(PRAMOD KUMAR AGRAWAL)
JUDGE

