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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 08 January, 2025

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CRL.M.C. 3509/2021 & CRL.M.A. 20874/2021

SAURABH CHADHA

.....Petitioner

Through: Mr. Rupendra Pratap Singh &
Mr. Sameer Vats, Advocates

Versus

STATE AND ANR.

.....Respondents

Through: Mr. Sanjeev Sabharwal, Additional
Public Prosecutor & Ms.Mansi
Sharma, Advocate, Respondent-State
with with SI Parveen Kumar, PS
Malviya Nagar.
Ms. Anu Narula, Advocate for
Respondent No.2

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Petition under Section 482 of the *Code of Criminal Procedure, 1973* ('Cr.P.C.' hereinafter) has been filed on behalf of the Petitioner for quashing of FIR No.493/2021, under Sections 323/341/354/34 of the *Indian Penal Code, 1860* ('IPC'), registered at Police Station Malviya Nagar, New Delhi and the proceedings emanating therefrom.
2. *It is averred* that Respondent No. 2-Ms. Neera Sharma, the Complainant of the FIR in question, is the cousin sister (*real mama's*



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daughter of Petitioner No.1)-Saurabh Chadha, who in a pre-planned and motivated manner, with the sole objective to pressurize the mother of Petitioner No.1 to relinquish her share in the ancestral property in her favour, in respect of which civil disputes are pending before the Hon'ble Supreme Court in C.A. No. 2153/2013 [SLP (C) No.1248/2012], wherein she is not a party but is daughter of one of the legal heirs; has made a false complaint against the Petitioners.

3. It is asserted that on 11.08.2021, Petitioner No.1-Mr. Saurabh Chadha, had received call from Respondent No.2 on his mother's mobile, who was not well on that day. Petitioner No.1 picked up the phone and Respondent No.2 threatened him that either he should make his mother understand to relinquish her share in the ancestral property in her favour; otherwise, she will come to his house and thereafter, he would see what she can do with him and his family. The Complainant- Respondent No.2 had made more than 15 calls on the day of the incident and has also sent a message at 04:43 PM stating that "*Malviya Nagar ghur pe akur baat karni padegi mujhe ... lagta as u not taking call*". At around 6:05 PM she again sent a message writing "*hum se to kahti hai bhgwan ne badd diya hai toh mat le apna hissa*". Petitioner No.1 instructed the Respondent No.2 to not come to his house and disconnected the call.

4. Despite being told not to come, the complainant came to the house of her *Bua*, mother of Petitioner No.1 Saurabh Chadha on the pretext of discussing the family issues. During the discussion, Petitioner No.2-Deepika Seth, wife of Petitioner No.1 intervened. However, complainant assaulted her by pulling her hair, slapping and giving her beatings. It was



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further alleged by the Complainant that her *Bua* and her husband- Petitioner No.3- Surender Pal Chohdda (since deceased) and their maid also joined Petitioner No.2 and pushed her to lock in a room, but her *Bua* stated that if she is locked, she would break the things in the house. Then Petitioner No.2- Deepika Seth banged the Complainant's head against the wall and pushed her on the bed and sat on her for 15-20 minutes and her maid scratched her neck. Petitioner No.2 also pulled her breasts and touched her private parts and thereby, molested her. Petitioner No.3 slapped her. Petitioner No.1 was called and asked to come back home. Allegedly, he also joined in the assault.

5. The Petitioners have submitted that admittedly, Petitioner No.1 was not present in the house, when the Complainant/ Respondent No.2 entered their house. To corroborate, reliance has been placed upon CCTV footage of the locality in which he was seen leaving at 07:11 PM and re-entering the house at 07:45 PM., which also what Respondent No.2 has stated in her Complaint. On reaching home at around 07:45 PM, Petitioner No.1 was the first person to call the police PCR at No.100 and inform them about the alleged incident and the conduct and motive of Respondent No.2.

6. ***Petitioner No.1 has claimed*** that on the same day i.e. 11.08.2021 on the complaint of Respondent No.2, FIR No.493/2021, under Sections 323/341/353/34 IPC was registered at Police Station Malviya Nagar, New Delhi.

7. It is asserted that the intention of Respondent No.2 in coming to the house of Petitioners and creating a ruckus and making scandalous allegations against the Petitioners, can be easily attributed to her ulterior



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motives.

8. The Petitioners have further submitted that on the day of the incident, EEG test of eight months old daughter of Petitioners No.1 & 2, was going on in another room in the presence of one Para Medical Staff and the maid. When the complainant- Respondent No.2 started shouting, Petitioner No.2 tried to convince her not to shout as her daughter's Test was going on in another room and asked her to leave the house. Also, Petitioner No.3, father of Petitioner No. 1, an old aged man of 76 years, suffering from age related ailments and problems, cannot even stand for more than a few minutes without any support and as the allegations leveled against him, are baseless and pre-planned, in order to grab the share of their mother in the ancestral property.

9. The allegations made in the FIR are only with an intent to pressurize mother of Petitioner No.1 to file an affidavit in the SLP pending before the Supreme Court. The chats, call records as well as the CCTV footage clearly show that Respondent No.2 had forcefully entered in their house and assaulted his mother and disrobed Petitioner No.2 and slapped Petitioner No.3, for which cross-FIR No. 494/2021 was registered at Police Station Malviya Nagar for the offences under Sections 354B/451/509 IPC.

10. *The Petitioners have sought quashing of the FIR* on the ground that even though Petitioner No.1 had instructed Respondent No.2 to not come to their house, but she forcefully entered the house of the Petitioners with an ulterior motive to make false and frivolous complaints against them to force mother of Petitioner No.1 to relinquish her share of the ancestral property. Thus, no offence under Section 341 IPC is made out, as



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Respondent No.2 was not restrained to proceed in the direction in which she wanted to and it is nowhere mentioned in the Complaint that Petitioner No.1 restrained her to enter their house.

11. Section 339 IPC is also not attracted as it requires that the obstruction has to be complete and successful in preventing the person from proceeding in any direction, in which he/she intends to proceed. No such allegation has been made in the Complaint by Respondent No.2.

12. Also, the ingredients of *Section 354 IPC* are not attracted as there was no intention to commit the offence, as alleged.

13. The complaint is motivated, as it is borne out from the CCTV camera footage that Petitioner No.1 was not present in the house from 7:11 PM till 7:45 PM. The alleged incident happened at 07:30 PM and therefore, it is apparent that Petitioner No.1 was not in any manner involved in the incident. In fact, it is Petitioner No.1 who had made the first PCR call and the police arrived at 7:45 PM and on their complaint, FIR No.494/2021, under Sections 323/341/384/342 IPC was registered at Police Station Malviya Nagar, against Respondent No.2.

14. The allegations levelled against the Petitioner No.3 are also false as he is even unable to walk properly and is not in a position to even stand without help.

15. Reliance is placed on *Maheshwar Tigga Vs. The State of Jharkhand* (2020) (10) SCC 108 wherein it is held that if a person has gone voluntarily, then Section 341 IPC is not attracted.

16. Reliance is also placed on *Ahmed Ali Qureshi & Anr. Vs. The State of Uttar Pradesh & Anr.* 2020 (13) SCC 435 wherein it is held that if the



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criminal proceedings are maliciously instituted with ulterior motive, such proceedings are abuse of process of law.

17. Also, reliance is placed on Rupan Deal Bajaj & Anr. Vs. Kanwar Pal Singh Gill & Anr. 1995(6) SCC 194 to submit that the allegation of wrongful restrain on the movement in such a manner that a person has to move backward, cannot be said that the person was wrongfully restrained.

18. The Petitioners have alleged that Respondent No.2 Ms. Neera Sharma in a pre-planned manner, got the FIR registered only for the sake of harassing and pressuring mother of Petitioner No.1, who is her real *Bua*, to force her to relinquish her share in the ancestral property in favour of Respondent No.2 and to file an affidavit in the SLP pending adjudication before the Supreme Court.

19. In the end, it is argued that Respondent No.2 is a short tempered lady, who had previously also levelled allegations of molestation against her father only for the sake of grabbing the property/ money. Her real brother had informed the Petitioners that she can go to any extent for the property and warned them to be careful. For this reason, Petitioner No.1 had at the first instance ignored the calls made by Respondent No.2 and also when picked up the call, told her not to enter their house. However, she entered the house of the Petitioners and created a scene and levelled baseless allegations against them.

20. It is submitted that the allegations leveled by Respondent No.2 in her complaint, on the basis of which FIR No. 493/2021 has been registered, are false and frivolous and as such the FIR deserves to be quashed.

21. ***In reply affidavit, Respondent No.2- Neera Sharma*** has stated that



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she is the victim of various offences committed by the Petitioners. She has submitted that she had made a complaint to the police in respect of the alleged incident but the collusion of the Petitioners and the Police is evident from the fact that despite reporting the matter to the Police on same day i.e. 11.08.2022 however, FIR No. 493/2021, under Sections 323/341/384/342 IPC was registered at Police Station Malviya Nagar, against the Petitioners by changing the date to 12.08.2021.

22. She has submitted that the present Petition is a counter blast to her Petition seeking quashing of FIR No.494/2021, under Section 354B/451/509 IPC, which has been registered by the Petitioners against her with the false allegation of pressuring mother of Petitioner No.1 to relinquish her share in favour of Respondent No.2. She has strained relations with her father because he differentiates between son and daughter. The truth of the matter is that mother of Petitioner No.1 is a greedy woman and Petitioner No.1 and other family members are helping her aunt (*bua*) for lust of money, who has forged a Will of her mother in respect of the suit property, regarding which a civil dispute between her father, uncle and aunt (Petitioner No.1's mother) is pending before the Supreme Court.

23. Respondent No.2 has submitted that she was only having a peaceful talk with her aunt, when Petitioner No.2 barged in and started creating ruckus and she slapper her, gave her beatings, pulled and pushed her, snatched her phone and committed sexual and physical assault on her.

24. Respondent No.2 has alleged that at the time of the alleged incident, no EEG test on daughter of Petitioners No.1 & 2 was being carried out and Petitioners have fabricated the documentary evidence to substantiate their



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case.

25. She has further asserted that admittedly Petitioner No.1 was present in the house at the time when the police arrived. She has suffered at the hands of Petitioner No.1, as has been mentioned in her Complaint. The truthfulness of the allegations made in her Complaint are corroborated by the contents of the cross-Complaint filed by the Petitioners, on which Cross-FIR No. 494/2021 has been registered.

26. It is asserted that there is no ground to quash the FIR in question and the present Petition deserves to be dismissed.

27. **Submissions heard and record perused.**

28. Respondent No.2, Complainant in present FIR No. 493/2021, of which quashing is sought, has levelled the allegations that when she entered into the house of her Petitioner No.1, she was hit by Petitioners No.2 and 3. There are also allegations of alleged molestation by Petitioner No.2- Deepika Seth. It is on record that Petitioner No.1- Saurabh Chadha, was not present at the house at the time the Complainant/Respondent No.2 entered into his house at 07:30 PM.

29. It is the own case of Petitioner No.1 that on coming to know about Respondent No.2 reaching their house, he immediately rushed to his house and reached there at around 07:45 PM. So, it cannot be said that Petitioner No.1 had not subsequently joined the other Petitioners in committing physical assault upon the Complainant. There is specific allegation of beating and assaulting, which *prima facie* make out a case under Sections 341 and 354 IPC.

30. It is not in dispute that Respondent No.2/Complainant had gone to the



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house of the Petitioners. She has raised the allegation that while she was at the house of the Petitioners, she was physically assaulted and an endeavour was made to lock her in the room, though eventually she was no locked. The *prima facie* allegations under Section 341 IPC, are made out, which necessarily can be tested only on the anvil of evidence.

31. At the stage of quashing of the FIR, it is only the complaint and the surrounding circumstances, which are significant to ascertain if any cognizable offence is made out. In the present case, there may be a background of civil litigation and acrimony *inter se* the family of the parties, but that in itself is not sufficient to conclude at this stage that no cognizable offence is alleged in the Complaint.

32. Insofar as the averments of the Petitioner No.1 that he was not present at the time of alleged incident, is concerned, it may be a ground for him to seek discharge or to be acquitted before the learned Trial Court, but it cannot certainly be a ground to seek partial quashing of the FIR qua him.

33. There is no merit in the present petition, which is hereby dismissed.

34. It is observed that the observations made herein are without prejudice to the rights of the parties to agitate their respective claims before the learned Trial Court at the appropriate stage to seek discharge or at any subsequent stage of trial.

35. The present petition and pending Applications, if any, are accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 8, 2025



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