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

% *Date of decision: 19th February, 2025*

+ **W.P.(CRL) 2088/2020, CRL.M.A. 17353/2020**

1. **CABRIN JOSEPH**
S/o Late Sh. V.S. Joseph
R/o Flat No.546, Third Floor,
Bank Colony, Devli,
New Delhi-110062

2. **FLORIN JOSEPH**
D/o Cabrin Joseph
R/o Flat No.546, Third Floor,
Bank Colony, Devli,
New Delhi-110062

.....Petitioners

Through: Mr. Vipin Bhasker, Advocate with
Petitioner No. 2.

versus

1. **GOVT. OF NCT OF DELHI**
Through its DCP
District South, Hauz Khas,
New Delhi-110016

2. **SHO**
Neb Sarai,
New Delhi.

3. **MRS. NIRUPAMA PANT**
W/o Ajay Pant
F/o Flat No.546/A2,
Bank Colony, Devli Village,
New Delhi-110062

.....Respondents



Through: Mr. Rahul Tyagi, ASC for the State.
Mr. Rakesh Nautiyal, Advocate for
R3.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition under Article 226 of the Constitution of India read with Section 482 of Cr.P.C has been filed for quashing of FIR No.506 dated 16.11.2020 under Section 323/354/509/34 IPC, Police Station Neb Sarai.
2. It is submitted in the Petition that the aforesaid FIR No.506/2020 has been lodged by the Complainant with ulterior motive for wrecking vengeance since an FIR No.467 dated 20.10.2020 under Section 506/509/34 IPC P.S. Neb Sarai had been lodged on the complaint of Petitioner No.2 Florin Joseph against Shri Ajay Pant, husband of Respondent No.2. Further, the CCTV footage of the incident does not support the version of the Complainant.
3. The Petitioners are law abiding citizens and are entitled to protection of their rights guaranteed under Articles 14, 19 and 21 of the Constitution of India. The Petitioner No.1 is suffering from Kidney ailments since 2019 with his both kidneys having a functionality of 40%. He has a very restricted life as is evident from his medical reports/prescriptions and photographs.
4. The Petitioner No.2 Florin Joseph, daughter of Petitioner No.1, is a final year law student. The Petitioner No.1 along his wife and daughter are residing in the Flat No.546, Third Floor, Bank Colony, Devli, New Delhi,



which they had purchased in July, 2012. The building consists of Nine flats which also include the flat of the Petitioners. Since 2018, the majority of the flat owners of the building have tried to create problems for the Petitioners in order to harass them so that they would leave the flat because they always discussed amongst themselves that a Christian family should not be staying in their building as their culture is different.

5. On 06.01.2020, Petitioner No.2 wrote a complaint to Respondent No.1 with a copy to Commissioner of Police regarding harassment and illegal activities by the few occupiers of the flats. He stated therein that they had a scheduled water connection from Delhi Jal Board from the last three years and the other occupants were also having separate water connection, but they have been harassing Petitioner No.2 and her parents from time to time. It was also indicated in this Complaint that Petitioner No.1, father of Petitioner No.2, was in critical health condition and their car parked was damaged by the grandson of one Satto Devi at the instance of Respondent No. 3 and others. On 02.02.2020, the Petitioner No.2 sent an email to Respondent No.1 seeking what action has been taken on her Complaint.

6. The Petitioner No.2 as and when harassed by the other flat owners, made a PCR call and also gave written complaint on 02.02.2020. In response to email sent to the Commissioner of Police, a response *vide* email dated 10.02.2020 was received from the office of Police Commissioner that the Complaint has been referred to Joint Commissioner of Police, Southern Range for necessary action.

7. On 16.10.2020, the Petitioner No.2 filed a Writ Petition before this Court seeking protection under Article 21 of the Constitution of India.



Eventually, *FIR No.467 under Sections 509/506/34 IPC* was registered on 20.10.2020 against the husband of Respondent No.3 and husband of Anita Rawat and others on the basis of the Complaint lodged by Petitioner No.2. The Statement under Section 164 Cr.P.C was recorded and offence under Section 354 IPC was clearly made out.

8. The statement of mother of Petitioner No.2 was recorded under Section 161 Cr.P.C on 02.11.2020. On 04.11.2020, Petitioner No.2 called PCR at 08:47 A.M and lodged a written complaint with SHO/R-2 regarding misbehaviour, threats and assault of mother of Petitioner No.2 by Respondent No.2 and other neighbours, when they came to know about the registration of FIR.

9. On 05.11.2020, few persons, accused in FIR No.467 dated 20.10.2020, gathered on the roof of the building and decided to teach a lesson to the Petitioners.

10. On the next day i.e. 06.11.2020, the Petitioners had gone to the hospital for the treatment of Petitioner No.1. While returning from the hospital they tried to park their car, but Vijay Singh and Anita Rawat and other person in a pre-planned manner, tried to obstruct the car from being parked and they attacked the Petitioners. The entire incident was recorded in the CCTV Camera and also on their mobile phones. The recording would reveal that how the Petitioners were attacked by Anita Rawat and Vijay Singh who were the accused in FIR No.467 of 2020.

11. The PCR was immediately called and a Complaint about the assault was made on 06.11.2020. The medical examination of the Petitioners was done on 07.11.2020 at AIIMS Hospital and MLCs of both the Petitioners



were prepared.

12. The Petitioner No.2 then wrote a letter dated 12.11.2020 to Chairman, National Minorities Commission regarding the harassment done by the majority.

13. After about 10 days of the incident of 06.11.2020, a false and malicious Complaint dated 16.11.2020 was made by Respondent No. 3 in order to pressurize the Petitioners to withdraw their FIR bearing No.467/2020, and FIR No.506 dated 16.11.2020 has been registered against the Petitioners on the complaint of respondents.

14. *The quashing of FIR* has been sought on the *grounds* that this FIR No.506 dated 16.11.2020, is nothing but a counter-blast to the earlier FIR No.467/2020 filed by the Petitioner No.2. There is no evidence before the Police to support the version of the Complainant given by her in the FIR. On the contrary, no such incident as claimed in the Complaint took place as is evident from the CCTV footage and the video recording on the mobile phone of Complainant and Anita Rawat. The FIR has been registered only to wreck vengeance on the Petitioners.

15. The FIR is sought to be quashed for which reliance has been placed on *State of Haryana vs. Bhajan Lal* AIR 1992 SC 605.

16. The Respondent No.1 in its **Status Report** has submitted that during the course of the investigations, local inquiries were made and the witnesses examined. Two of the witnesses namely Anita Rawat and Vijay Singh who reside in the same building, corroborated the facts as narrated in the Complaint. In the CCTV footage which was presented by accused/Ms. Florin Joseph, it is clearly seen that the accused/Cabrin Joseph came in the



car, while his daughter Florin Joseph opened the main gate of the building to park their car inside. Later, Shri Vijay (witness) is seen trying to stop him to enter his car into the building on which accused came out of the car and entered the building. The incident thereafter, has not been recorded in the CCTV camera.

17. Some people later came out of the building and a quarrel took place between them. The CCTV footage from the camera installed nearby is blurred and identity of the persons involved in the fight could not be established.

18. According to the Complainant, Accused/Cabrin Joseph after coming out of the car shouted and abused and pushed the Complainant away with his hands on the chest, though this aspect is not covered in the CCTV camera which covers only half of the portion inside the building.

19. Notice under Section 41 Cr.P.C was served upon the Accused/Cabrin Joseph and his daughter on 22.11.2020. They both came to the Police Station on 24.11.2020 to join the investigations.

20. The statement of the Complainant has been recorded under Section 164 Cr.P.C, wherein she has supported the averments made in the Complaint.

21. It was submitted on behalf of the Complainant that because of the unruly and quarrelsome conduct of the Petitioner, one of the owner of the flat has shifted out to reside in tenanted premises while the other owner has sold his property.

22. It is argued that there is constant fight and bickering on small issues by the Petitioners and there is no truth in the averments made in the Petition.



Both the Accused persons have been granted Anticipatory Bail by learned ASJ vide Order dated 13.01.2021.

23. The *learned Counsel on behalf of the Complainant* has vehemently contested the Petition and submitted that there is clear evidence of the Complainant having been assaulted by Petitioner No.1. There is no ground for quashing of FIR No.506 dated 16.11.2020, which has been recorded on the basis of incident which happened on 16.11.2020 and is not a counterblast to the earlier FIR of the Petitioners .

24. **Submissions heard and record perused.**

25. From the narration of facts as stated in the Petition, it is evident that there is a disharmony, discord and ill will amongst the residents of the Flats in the building on various issues including parking and installation of water tanks. There is a chequered history of fights inter-se the Petitioners and Respondent No.3 and other residents.

26. The first Complaint, to which reference has been made, was made in January, 2020 and thereafter, various complaints have been made to Police Authorities. The PCR Van has also been called occasionally whenever there is a fight inter-se the neighbours. According to the Petitioners, on their Complaint an FIR No.467/2020 eventually was registered on 16.10.2020 and even thereafter, they have not been able to live in peace.

27. It is pertinent to observe that admittedly a fight between the parties took place on 06.11.2020. The Petitioners also made a Complaint to the Police though no action has been taken on the same. However, on the Complaint made by the Respondent No.3 on 16.11.2020, the FIR in question has been registered.



28. There are specific allegations of her having been molested by Petitioner No.1, which cannot be discredited without the same being put to trial. Essentially, the ground for quashing is that it is a motivated and malafide FIR only to coerce the Petitioners to withdraw their earlier FIR.

29. However, the incident of 06.11.2020 is not a conjured one by the Complaint, but in fact a fight did take place between the parties. At this stage, the contents of the Complaint cannot be disbelieved outrightly.

30. It is also pertinent to observe that not only the Complaints were made to the Police from time to time, but the Petitioners have also made Complaint to the Chairman of National Minorities Commission, wherein they have alleged that because they are the Christians, the neighbours in the building have been harassing them in order to compel them to leave the building.

31. There is no ground for quashing of FIR and the present Petition is dismissed.

32. Accordingly, the present Petition is disposed of along with the pending Application(s).

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 19, 2025

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