

Supreme Court of IndiaSalib @ Shalu @ Salim vs The State Of Uttar Pradesh on 8 August, 2023

Author: B.R. Gavai

Bench: B.R. Gavai

2023 INSC 687

REPORTABLE

IN THE SUPREME COURT OF INDIA  
 CRIMINAL APPELLATE JURISDICTION  
 CRIMINAL APPEAL NO. 2344 OF 2023  
 (Arising out of S.L.P. (Criminal) No. 3152 of 2023)

SALIB @ SHALU @ SALIM

...APPELLANT(S)

VERSUS

STATE OF U.P. & ORS.

...RESPONDENT(S)

JUDGMENT

J.B. PARDIWALA, J. :

1. Leave granted.

2. This appeal is at the instance of an accused charged with the offence punishable under Section 506 of the Indian Penal Code (for short, "IPC") in connection with the First Information Report (FIR) No. 175 of 2022 dated 11.08.2022 registered with the Mirzapur Police Station, District Saharanpur, State of U.P. and is directed against the order passed by the High Court of Judicature at Allahabad dated 17.10.2022 passed in the Criminal Miscellaneous Writ Petition Charanjeet Kaur Date: 2023.08.08 15:45:15 IST Reason:

No. 13339 of 2022 filed by the appellant herein for quashing of <sup>the</sup> the aforesaid FIR by which the High Court rejected the Writ Petition and thereby declined to quash the FIR referred to above.

3. The FIR dated 11.08.2022 lodged by the respondent No. 4 herein reads thus:-

"To, the S.H.O., Police Station Mirzapur Paul, District Saharanpur. Respectfully submitted that the applicant Husna wife of Irafan resident of village Mirzapur Paul police station

Mirzapur Paul, District Saharanpur had submitted an application in Mahila thana against Iqbal @ Bala and his associates being Case Crime No. 122/22 u/s 376D, 323, 120B, 452 IPC which is under investigation. Due to this reason Khursheed son of Asagar and Farooq son Mustak and Maharaj wife of Farooq residents of Shahpur Gadda, Police Station Mirzapur Paul, District Saharanpur are threatening me the complainant. They told me on phone and face to face that if you have not settled this case then you and your family will be killed and Suleman Kabadi has shown me pistol and told that we are companions of Iqbal @ Balla. If there has not been any decision then should remain ready to suffer consequences. Your are requested to take legal action. I shall remain obliged.”

4. Thus it appears on a plain reading of the aforesaid FIR that the victim namely Husna (respondent No.3 herein) had earlier lodged an FIR No. 122 of 2022 for the offences punishable under Sections 376D, 323, 120B, 354A and 452 resply of the IPC and under Sections 7 and 8 resply of the Protection of Children from Sexual Offences Act, 2012 against Haji Iqbal @ Bala (father-in-law of the appellant herein), ♠Mehmood, Javed, Alishan, Afjal and Dilshad. It is alleged that while the investigation of the FIR No. 122 of 2022 referred to above was going on, the accused persons namely Khurshid, Farukh, Maharaj and Suleman had telephonically as well as in person threatened the victim saying that they are the associates of Iqbal alias Bala and that if she would not withdraw the said FIR No. 122 of 2022, then she as well as her family members would be killed.

5. The appellant herein went before the High Court by way of filing the Criminal Miscellaneous Writ Petition No. 13339 of 2022 with a prayer to quash the FIR lodged against him. The High Court declined to quash the FIR vide the impugned order dated 17.10.2022. The order reads thus:-

“Heard Shri Indra Bhan Yadav, learned counsel for the petitioner, Sri Namit Srivastava for the complainant and learned A.G.A, for the State respondents.

The relief sought in this petition is for quashing of the impugned FIR dated 11.08.2022 registered as Case Crime No.175 of 2022 under Section 506 IPC Police Station Mirzapur, District Saharanpur.

Further prayer has been made not to arrest the petitioner in the aforesaid case.

Learned counsel for the petitioner submits that the impugned FIR has been lodged on false/ vexatious/ mischievous allegations, and no offences are made out against the petitioner.

♠ 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. The correctness of the allegations would have to be tested on the basis of the materials collected during the course of investigation as by insertion of notification No.1058/79-V-1-19-1 (Ka)-20-2018 dated 6th June 2019 and 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 petitioner to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law.

It is made clear that we have not adjudicated the contentions raised by learned counsel for the petitioner and the same are left open for the petitioner to raise at an appropriate stage in an appropriate proceeding, in accordance with law.”

6. In such circumstances referred to above, the appellant is here before this Court with the present appeal. SUBMISSIONS ON BEHALF OF THE APPELLANT

7. Mr. Siddhartha Dave, the learned senior counsel appearing for the appellant herein in his written submissions has stated as under:-

▲“a) It is respectfully submitted that the Petitioner is not named in the present FIR but subsequently during the course of investigation he was named for the first time in the statement of the alleged eye-witness Salman recorded under Section 161 CRPC on 12.08.2022, who gave an improved version of the alleged incident and on the basis of the said statement, vide G.D. Entry No. 30 dated 12.08.2022 the offence under Sections 147, 148, 149, 195-A, 386, 504 and 506 IPC was added in the FIR No. 175/2022. It is pertinent to submit that nowhere in the FIR has the Complainant mentioned about the presence of the alleged eye-witness Salman at the time and place of incident.

b) The allegations in the First Information Report are not only absurd but also highly improbable given that there is no mention of the date and time of incident in the FIR. Moreover apart from omnibus allegations there is no specific allegation against the accused persons. The Petitioner was not present at the time and place of the incident namely, Village Mirzapur, District Saharanpur, and in fact the Petitioner is permanently residing in Kunjagrang, Vikasnagar, Dehradun, Uttarakhand.

c) 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 under Sections 147, 148, 149, 195-A, 386, 504 and 506 of IPC is clearly not made out against the Petitioner. The entire allegation in the FIR revolves around an earlier FIR No.122/2022 dated 21.06.2022 lodged by the Complainant against Haji Iqbal alias Bala (Petitioner's father-in-law) and his family members under Sections 376, 323, 354 (A) IPC and Section 7 and 8 of the Protection of Children from Sexual Offences Act, 2012. It is submitted that the Petitioner is not an accused in the said FIR No.122/2022 and there was therefore no question of the Petitioner having threatened the Complainant to withdraw the said FIR No.122 of 2022.

d) That the Complainant is in a habit of making similar baseless and false allegations against other persons and has lodged the present FIR at the behest of the present ruling party in the State of Uttar Pradesh to settle political scores with the Petitioner's father-in-law Haji Iqbal as he belongs to a rival political party and he was a Member of Legislative Council from 2011 to 2016.

e) It is submitted that the Respondents have incorrectly stated that the Petitioner is involved in multiple criminal cases without mentioning the cases allegedly registered against the Petitioner. The Petitioner is not a member of any Gang and he is being falsely implicated in the present case simply because he is the son-in-law of Haji Iqbal alias Bala and also the pairokar of the family members of Haji Iqbal alias Bala is some cases pending before the Learned Trial Court and the Hon'ble High Court.

f) It is respectfully submitted that the Petitioner has no criminal antecedents and apart from the present FIR No. 175 of 2022 there are no other criminal cases registered against him.

g) The allegations made in the First Information Report do not prima facie constitute any offence or make out a case under Sections 147, 148, 149, 195-A, 386, 504 and 506 IPC of 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 & ANOTHER VS. STATE (NCT OF DELHI),  
DEPARTMENT OF HOME & ANOTHER (2019) 11 SCC 706 at paragraph 14 & 16].

h) 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. 175 of 2022 dated 11.08.2022 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) That the petitioner being the family member of the gang and the other members of the gang are criminal minded persons and indulge in anti social activities and the petitioner is also involved in the various illegal work.

b) That initially the name of the petitioner was not in the FIR; however, the investigating agency, during the investigation added 147, 148, 149, 195A, 386, 504,506 IPC has been added and the name of the petitioner was added.

c) After registration of the FIR, the investigation was conducted by the Investigation Officer, during investigation, number of notices under section 41A Cr.P.C. was issued to the Petitioner but he did not give any heed on it and not reply the notices and he did not co-operate with the investigation to find the actual truth.

Further, it was that the Petitioner is absconding and he is suspected to have left the country.

d) During investigation, the statement of Complainant was recorded under section 161 Cr.P.C. and other material evidence was collected wherein the claim of the complainant is proved.

e) In the above FIR/Crime No. 175/2022 U/s 147, 148, 149, 195A, 386, 504,506 IPC, registered at P.S. Mirjapur, District Saharanpur, there are total four (4) accused persons namely Khurshid, Farukh, Maharaj, Suleman Kabadi. Further during the investigation, the name of the petitioner was also added but only the petitioner come before this Hon'ble Court to quash the said FIR.

f) The Investigation has been completed and chargesheet is ready to file against the Petitioners but due to stay order dated 02.01.2023 of this Hon'ble Court, the chargesheet could not be submitted.

g) During investigation, the statement of Complainant/Victim under section 161 Cr.P.C. was recorded, wherein the victim has revealed that she was pressurized to make settlement in the aforementioned FIR No. 122 of 2022 by the Gang members of the Petitioner No. 1 Mohd. Iqbal. Further, it was also informed that Khurshid S/o Asgar, Farooq S/o Mutaq, Mehraj S/o Farooq and Suleman Kabadi S/o Khurfan has threaten the victim and Suleman Kabadi has shown 🔫 the pistol and warned that if she has not settled the issues, she would have to face the consequences. In view of the aforementioned factual & legal submissions, it is most respectfully submitted that the present special leave petition of the Petitioners is liable to be dismissed with exemplary cost and the impugned order dated 17.10.2022 passed by the Hon'ble High Court in Criminal Misc. Writ Petition No. 13339 of 2022 is liable to be upheld." ANALYSIS

9. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is whether the FIR should be quashed so far as the appellant herein is concerned?

10. We take notice of the following facts:-

1. The appellant herein has not been named in the FIR as one of the accused persons. There is no allegation worth the name in the entire FIR against the appellant herein.

2. It appears that further statement of the first informant was recorded under Section 161 of the Code of Criminal Procedure and in the said statement, the name of the appellant herein surfaced.

11. The first informant in her further statement dated 12.08.2022 stated thus:-

🔪 "... Yesterday morning at around 7.00 am I along with my daughter Salia was going to Shahpur Gada to see my brother at my mother's house as soon as I reached ahead of the petrol pump, then a Bolero car colour white number unknown came and stopped next to me, the people sitting in it lowered the glass of the car. So I recognized that this is Suleman kabaadi. That's why Suleman, sitting on the front seat, got down from the car and said that you did not understand after saying it repeatedly. We had also explained to you that do not complain about the decision taken by Haji Iqbal. But after abusing you, you did not agree. Now about 10 lakh rupees will be spent on our jail and court. What will your father give you? Then all the people sitting in the car got down and surrounded me. Rashid Pradhan

Mahmudpur said either withdraw the complaint now or give Rs 10 lakh. Otherwise you will definitely die. Your family will also die with you. That's why Aslam alias Shubha resident of Shahpur Gada took out a pistol from his pocket and pointed at me and said that you have heard, give us at least 10 lakh rupees. Otherwise withdraw the case. Otherwise, you know that nothing will be known about you. And tell your family not to testify against us. Otherwise everyone be ready to die. Seeing the pistol, me and my daughter started running away in fear. Even our voice could not come out. Rao Atif of Raipur said where will she go after running away. And how long will it run? Will either take a decision or give Rs. 10 lakh or die. The person standing nearby, Salib alias Salu s/o Dilshad, resident of Kunja Grant Vikas Nagar, Dehradun, who is also the nephew and son-in-law of Iqbal alias Bala, was repeatedly saying that surround her in the car. Either she will decide or give money or she will die today itself. Only then Salman's son Latif of village Mirzapur whom I already knew. He came on his bike and stopped near us and asked what happened.....So Suleman Kabaadi said that it has been a long time now, people have started coming and going. Saying this, people sat in the car and ran towards Shahpur Gada. I sat here on the road. I could not understand anything. I told all these things to Salman's son Latif, Mr. Khursid, Farooq, Maharaj who belong to my family. These people threaten me by talking to my family members over the phone to get a decision in the case against Iqbal alias Bala and his family. Sir I am very worried please help me. Here is my statement. Sir, the persons whose names I have told you used to visit Iqbal alias Bala's house, that is why I know them from before. ..."

12. With the recording of the further statement referred to above, the investigating agency added Sections 147, 148, 149, 195A, 385 and 504 of the IPC.

13. We may also refer to one police statement of so-called eye witness namely Salman. The statement reads thus:-

"Statement Eyewitness...Salman s/o Latife resident of Kalyav police station Mirzapur district Saharanpur told on being asked that 11.06.2022 morning around 7.00 am he was going from his home Mirzapur to Shahpur Gada for some work, then on the way I saw that our own village some people are standing around Mrs. Husna on the road. Those who are around us. Whom I know very well, one of whom is Suleman Kabaddi, son of Furkan, resident of village Mirzapur Paul, police station Mirzapur Paul, district Saharanpur, town Mirzapur and the other person, Rashid's son Mohd. Resident Shahpur Gada police station Mirzapur district Saharanpur and name of the fourth person Atif son of Hameed resident Raipur police station Mirzapur district Saharanpur and the name of the fifth person is Salib alias Salu s/o Dilshad resident Kunja Grant Vikas Nagar Dehradun who is a relative of Haji Iqbal alias Bala, everyone is a respectable person, everyone keeps coming and going in our village Mirzapur. These people were abusing and threatening Husna wife Irfan resident of village Mirzapur Paul police station Mirzapur district Saharanpur to take a decision in the case written against Haji Iqbal alias Bala and his family members. And were demanding money for the expenses to be incurred in the written case. When I reached here, all these people sat in their Bolero car and went towards Shahpur Gada. Where Mrs. Husna was sitting there in a bad mood. When I asked her about what happened, Husna Devi told me all these things on the spot. Sir, it is true that when I reached there with a motorcycle, these people surrounded Husna and were standing on the road in front of the petrol pump and were threatening her. Of these Aslam

also had a pistol in his hand. I am giving this statement without any pressure. I have told you what I have seen. I have nothing to do with anyone. This is my statement.”

14. It appears from the aforesaid that the first informant in her further statement made out altogether a different story than what she narrated in the FIR. We would not go to the extent of saying that since the name of the appellant herein does not figure in the FIR and it came to be disclosed only for the first time in the further statement of the victim that itself can be a ground to quash the FIR. However, there are many other attending circumstances emerging from the record of the case which indicates that the case on hand is one of false implication. Just because the appellant herein happens to be the son-in-law of a very hardened criminal as alleged by name Iqbal @ Bala, he has also been roped in by way of further statement. It is pertinent to note that the victim in her FIR has not even remotely referred to the presence of Salman s/o Latife at village Mirzapur Paul. We are highlighting all this only to demonstrate, how the entire case was fabricated step by step.

▲15. There is a different angle to this matter. It appears that the investigating agency has invoked Section 195A of the IPC. Section 195A of the IPC reads thus:-

“Section 195A. Threatening any person to give false evidence.—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 that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.”

16. A plain reading of the aforesaid provision indicates that if any individual is threatened with any injury to his person, reputation or property and such threats are administered with intent to cause that person to give false evidence, the same would constitute an offence under Section 195A of the IPC. In our opinion, none of the ingredients to constitute the offence punishable under Section 195A of the IPC are disclosed, on plain reading of the FIR and the further statement of the first informant including the statement of the so-called eye witness. The allegation in the FIR is that the accused persons threatened and pressurised the first ▲informant to withdraw her first FIR bearing No. 122 of 2022 registered for the offences punishable under Sections 376D, 323, 120B, 354A and 452 resply of the IPC. There is nothing to indicate that the accused persons threatened the first informant with intent that the first informant gives false evidence before the Court of law. The later part of Section 195A makes it very clear that false evidence means false evidence before the Court of law. On such false evidence if a person is convicted and sentenced, then the person found guilty of administering threats would be liable to be punished with the same punishment and sentence in the same manner and to the same extent as such innocent person is punished and sentenced. The word “false” in Section 195A should be read in the context with what has been explained in Section 191 of the IPC which falls in Chapter XI – of False Evidence and Offences Against Public Justice. Thus, even if we believe the allegations levelled in the FIR to be true, none of the ingredients to constitute the offence punishable under Section 195A are disclosed. To give threat to a person to withdraw a complaint or FIR or settle the dispute would not attract Section 195A of the IPC.

▲17. In the aforesaid context, we must look into Section 195A of the Code of Criminal Procedure (CrPC). Section 195A of the CrPC reads thus:-

“Section 195A. Procedure for witnesses in case of threatening, etc.—A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code (45 of 1860).”

18. The plain reading of the aforesaid provision indicates that if a witness or any other person receives threats and such threats are administered with an intent to cause that person to give false evidence before the Court, then such witness or person can file a complaint in relation to the offence under Section 195A of the IPC. It goes without saying that such complaint has to be lodged before the Court recording the evidence. Section 195A of the CrPC provides a remedy of filing a complaint. “Complaint” means as defined under Section 2(d) of the CrPC which reads thus:-

“Section 2(d) “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report. Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;”

▲19. We are conscious of the fact that Section 195A of the IPC is a cognizable offence. In a cognizable offence, police has power to investigate. We are not going into the question whether the bar of Section 195 of the CrPC would apply to Section 195A of the IPC as we have taken the view that none of the ingredients to constitute the offence punishable under Section 195A of the IPC are disclosed in the facts of the present case.

20. We take notice of the fact that Section 386 of the IPC has also been invoked. Section 386 of the IPC relates to extortion by putting a person in fear of death or grievous hurt. Section 386 of the IPC runs as follows:— “Section 386. Extortion by putting a person in fear of death or grievous hurt. — Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

21. “Extortion” has been defined in Section 383 of the IPC as follows:— “Section 383. Extortion. —Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or ▲ sealed which may be converted into a valuable security, commits ‘extortion.

#### Illustrations

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.”

22. So from the aforesaid, it is clear that one of the necessary ingredients of the offence of extortion is that the victim must be induced to deliver to any person any property or valuable security, etc. That is to say, the delivery of the property must be with consent which has been obtained by putting the person in fear of any injury. In contrast to theft, in extortion there is an element of consent, of course, obtained by putting the victim in fear of injury. In extortion, the will of the victim has to be overpowered by putting him or her in fear of injury. Forcibly taking any property will not come under this definition. It has to be shown that the person was induced to part with the property by putting him in fear of injury. The illustrations to the Section given in the IPC make this perfectly clear.

23. In the aforesaid context, we may refer to the following observations made by a Division Bench of the High Court of Patna in *Ramyad Singh v. Emperor* Criminal Revision No. 125 of 1931 (Pat):-

“If the facts had been that the complainant's thumb had been forcibly seized by one of the petitioners and had been applied to the piece of paper notwithstanding his struggles and protests, then I would agree that there is good ground for saying that the offence committed whatever it may be, was not the offence of extortion because the complainant would not have been induced by the fear of injury but would have simply been the subject of actual physical compulsion.” It was held:-

“It is clear that this definition makes it necessary for the prosecution to prove that the victims Narain and Sheonandan were put in fear of injury to themselves or to others, and further, were thereby dishonestly induced to deliver papers containing their thumb impressions. The prosecution story in the present case goes no further than that thumb impressions were ‘forcibly taken’ from them. The details of the forcible taking were apparently not put in evidence. The trial Court speaks of the wrists of the victims being caught and of their thumb impressions being then ‘taken’ ..... The lower Courts only speak of the forcible taking of the victim's thumb impression; and as this does not necessarily involve inducing the victim to deliver papers with his thumb impressions (papers which could no doubt be converted into valuable securities), I must hold that the offence of extortion is not established.”

24. Thus, it is relevant to note that nowhere the first informant has stated that out of fear, she paid Rs. 10 Lakh to the accused persons. To put it in other words, there is nothing to indicate that there was actual delivery of possession of property (money) by the person put in fear. In the absence of anything to even remotely suggest that the first informant parted with a particular amount after being put to fear of any injury, no offence under Section 386 of the IPC can be said to have been made out.

25. 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 <sup>↑</sup>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. <sup>↑</sup>In our opinion, the present case falls within the parameters Nos. 1, 5 and 7 respy referred to above.

26. 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 <sup>↑</sup>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.

27. In the overall view of the matter, we have reached the conclusion that the FIR No. 175 of 2022 dated 11.08.2022 deserves to be quashed in so far as the appellant herein is concerned. It is so apparent that as the State believes that the father-in-law of the appellant namely Iqbal @ Bala is a very hardened criminal, his son-in-law i.e. the present appellant who has been implicated in the further statement of the first informant is also a criminal.

28. 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. 175 of 2022 dated 11.08.2022 registered at Police Station Mirzapur, Saharanpur, State of U.P. are hereby quashed.

29. 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.

.....J. ( B.R. GAVAI ) .....J. ( J.B. PARDIWALA ) NEW DELHI;

AUGUST 08, 2023

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