

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2024  
(Arising out of SLP (Crl.) No.2389/2023)

VISHAL NOBLE SINGH

APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH & ANR.

RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. /2024  
(Arising out of SLP (Crl.) No.3337/2023)

J U D G M E N T

NAGARATHNA, J.

1. Leave granted.
2. The present appeals arise out of the common order dated 24.01.2023 passed by the Allahabad High Court dismissing the applications preferred by the Accused-Appellants under Section 482 bearing Nos.33816/2022 and 33242/2022.
3. Briefly stated, the facts of the case are that Complainant-Respondent No.2 registered a First Information Report (for short, 'FIR') bearing No. 476/2017, under Sections 406, 419, 420, 467, 468, 471 and 120B of the Indian Penal Code, 1860 (for short, "IPC"). The allegations in the FIR can be crystallized as under:

- i. The Accused-Appellant, Vishal Noble Singh, is the Principal of the Bishop Johnson School and College, a minority educational institution which is governed by the Diocese Education Board, Lucknow (DEB) which is run under the Church of North India (CNI). The Accused-Appellant, Vinod Bihari Lal, is the Secretary of DEB.
  - ii. The Secretaries and other officers of CNI and DEB, in collusion with the Accused-Appellants, were fraudulently running the institution by fabricating matriculation and other documents.
  - iii. The institution was functioning without affiliation from the Council for the Indian School Certificate Examinations (CISCE) Board.
  - iv. The Accused-Appellants and the co-accused persons were embezzling fees paid by many girl students to the extent of Rs.13 crores.
4. Upon registration of the FIR, the Accused-Appellant, Vishal Noble Singh, filed W.P. No. 18274/2017 before the Allahabad High Court which granted interim relief against his arrest. The Investigating Officer registered a charge sheet under Section 173 of the Code of Criminal Procedure, 1973 (for short, "CrPC") on 04.10.2017 on concluding that sufficient grounds were present to

prosecute the Accused-Appellants and other co-accused. Therefore, the Investigating Officer requested for summoning the witnesses and evidence. On 16.10.2019, the Allahabad High Court dismissed the Writ Petition No.18274/2017 for want of prosecution. In view of the chargesheet, the Court of Chief Judicial Magistrate, Allahabad passed an order on 21.09.2022 whereby it took cognizance of the offences and summoned the Accused-Appellants (Vishal Noble Singh and Vinod Bihari Lal) on 05.10.2022.

5. Being aggrieved by the order of the Court of Chief Judicial Magistrate, Allahabad, the Accused-Appellants (Vishal Noble Singh and Vinod Bihari Lal) filed the Applications under Section 482 bearing No.33816/2022 and No.33242/2022 respectively before the Allahabad High Court praying to quash the FIR No.476/2017 on the ground that even though the institution enjoyed constitutional protection under Article 30 of the Constitution, the police had maliciously filed a vague FIR where even the broad allegations did not attract the ingredients of any of Sections of the IPC.
6. The High Court passed a common order dismissing the Applications preferred by the Accused-Appellants. The High Court took note of the report received by the

Investigating Officer from the District Inspector of Schools, Allahabad which stated that there were complaints about the operation of the institution without requisite permission. The High Court reasoned that the allegations of the nature that were the subject matter of the case could only be considered based on evidence at the appropriate stage of trial. It held that the High Court could not exercise its discretionary jurisdiction when there is a dispute on the factual aspects, *vide Neeharika Infrastructure (P) Ltd. vs. State of Maharashtra, (2021) 19 SCC 401 ("Neeharika Infrastructure")*.

7. Hence, these appeals.
8. We have heard learned senior counsel for the Accused-Appellants, Sri V. Giri, Sri Kavin Gulati and Sri Siddhartha Dave and learned senior counsel Sri Ardhendhumauli Kumar Prasad, Additional Advocate General for the respondent-State. The Complainant-Respondent No. 2, though served, has not appeared before this Court. We have perused the material on record.
9. During the course of submissions, learned senior counsel for the Accused-Appellants contended that this is not a case where any of the ingredients for the alleged

offences under Sections 406, 419, 420, 467, 468, 471 and 120B of the IPC would apply. Having regard to the ingredients of the offences and the nature of the allegations which have been alleged against the Accused-Appellants herein, our attention was drawn to the FIR dated 09.08.2017 and chargesheet dated 04.10.2017 to contend that the chargesheet is nothing but a replica of the FIR and even on a combined reading of the said documents, no offence whatsoever has been made out as against the Accused-Appellants herein. It was submitted that this is a case where on account of total prejudice and with a mala fide intent the complaint was registered against the Accused-Appellants herein; the FIR, the chargesheet and the subsequent proceedings may, therefore, be quashed.

10. In this regard, reliance was placed on the judgment of this Court in the case of *State of Haryana vs. Bhajan Lal*, 1992 Suppl (1) SCC 335 ("*Bhajan Lal*") with particular reference to paragraph '102' therein and sub- paras 1, 3, 5 and 7, which read as under:

"102. (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 do not prima facie constitute any offence or make out a case against the accused.

X X X

(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.

X X X

(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.

X X X

(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."

11. *Per contra*, learned senior counsel for the respondent-State supported the impugned order and sought to contend that the school is being run without any recognition or affiliation as an independent school and therefore, the second respondent rightly initiated criminal proceedings against the Accused-Appellants herein and there is no merit in these appeals.
  
12. We have given our thorough consideration to the arguments advanced at the Bar and in light of the material on record.

13. On perusal of the FIR dated 09.08.2017, it is noted that the Complainant-Respondent No.2 has filed the FIR invoking Sections 406, 419, 420, 467, 468, 471 and Section 120B of the IPC. For ease of reference, the aforesaid Sections are extracted as under:

"406. Punishment for criminal breach of trust.- Whoever commits a criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

X X X

419. Punishment for cheating by personation.- Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

420. Cheating and dishonestly inducing delivery of property.- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

X X X

467. Forgery of valuable security, will etc.- Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the

delivery of any movable property or valuable security, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and also be liable to fine.

X X X

468. Forgery for purpose of cheating.- Whoever commits forgery, intending that the [document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

X X X

471. Using as genuine a forged document or electronic record. Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.

X X X

120B. Punishment of criminal conspiracy.- (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both."

14. The contents of the FIR as well as the chargesheet would have to be read in light of the ingredients mentioned in the aforesaid Sections and in light of the facts and



circumstances of these cases. The FIR as well as the charge-sheet have invoked Sections 406, 419, 420, 467, 468, 471 and Section 120B of the IPC. The aforesaid Sections are reproduced above. We fail to understand as to how the allegations against the appellants herein could be brought within the scope and ambit of the aforesaid sections.

15. The allegations against the appellants herein are that the Secretary of DEB Vinod Bihari Lal and other office bearers of the DEP have, in collusion with the Principal of the School Vishal Singh and another, conspired and on the affiliation of Bishop Johnson College, Civil Lines Bishop Johnson Girls Wing, Katra is being run fraudulently by preparing fabricated documents and by illegally making Srimati Yojna Lal, Principal of Girls Wing while playing with the future of thousands of girl students who have taken admission and siphoned of all the money received in fee and are distributing it among themselves and embezzling it. The aforesaid persons have till date embezzled from the fees of the students (public money) around Rs.13 crores, That no school affiliated with ICSE Board can open a school while the Bishop Johnson Girls Wing School is not an affiliated school. This, in fact, is also certified from the

inspection report of the District Inspector of Schools and District Basic Education Officer, Allahabad which document is attached.

16. The final report in, sum and substance, echoes the very same allegations to the effect that the accused have committed an offence by fabricating documents and on the basis of fabricated and forged documents have operated this School since 2014 and have collected fees from girl students and distributed the same among themselves. The Investigating Officer has stated that he found "sufficient evidence" available and hence, the charge-sheet No.1541/2017 was presented before the jurisdictional Chief Judicial Magistrate, Allahabad and therefore summons had to be issued.

17. On a reading of the FIR as well as the charge-sheet, we do not find that the offences aforesaid is made out at all. We do not find any criminal breach of trust nor any cheating by impersonation. There is also no cheating and dishonestly inducing delivery of property, nor has any documents referred to any forgery or security or any forgery for the purpose of cheating. There is no reference to any document which has been forged so as to be used as a genuine document and much less is as there any criminal conspiracy which can be imputed to the

appellants herein in the absence of any offence being made out *vis-a-vis* the aforesaid Sections.

18. In this regard, our attention was drawn to paras 42-44 and 46 of *Inder Mohan Goswami vs. State of Uttaranchal*, (2007) 12 SCC 1, dealing with Sections 420 and 467 IPC, which are extracted hereunder with regard to Section 420 IPC, it was observed thus:

"42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning.

43. We shall now deal with the ingredients of Section 467 IPC.

44. The following ingredients are essential for commission of the offence under Section 467 IPC:

1. the document in question so forged;
2. the accused who forged it;
3. the document is one of the kinds enumerated in the aforementioned section.

X X X

46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained.

(emphasis by us)

19. On a careful consideration of the aforementioned judicial dicta, we find that none of the offences alleged against the Accused-Appellants herein is made out. In fact, we find that the allegations of criminal intent and other allegations against the Accused-Appellants herein have been made with a *malafide* intent and therefore, the judgment of this Court in the case of *Bhajan Lal* and particularly sub-paragraphs 1, 3, 5 and 7 of paragraph 102, extracted above, squarely apply to the facts of these cases. It is neither expedient nor in the interest of justice to permit the present prosecution to continue.

20. This Court, in *Madhavrao Jiwajirao Scindia vs. Sambhajirao Chandrojirao Angre*, (1988) 1 SCC 692, reasoned that the criminal process cannot be

utilized for any oblique purpose and held that while entertaining an application for quashing an FIR at the initial stage, the test to be applied is whether the uncontroverted allegations *prima facie* establish the offence. This Court also concluded that the court should quash those criminal cases where the chances of an ultimate conviction are bleak and no useful purpose is likely to be served by continuation of a criminal prosecution. The aforesaid observations squarely apply to this case.

21. We find that in recent years the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud.

22. We say so for the reason that while the second respondent-complainant has made grave allegations against the appellants herein and on whose behalf a charge-sheet has also been filed against such allegations has failed to appear before this Court to justify the same. Such acts would not only cause deep fissures and mistrust between people and also

unnecessarily burden the law courts and the criminal justice system.

23. We are constrained to make the aforesaid observations particularly having regard to the fact that the second Respondent complainant having made the allegations against the appellants and others has failed to appear before this Court to justify the same. The non-appearance of the second respondent before this Court is indicative of his prejudicial attitude and temperament and his inability to justify any of the allegations against the appellants herein and therefore his absence in this proceeding.

24. We also find that the reliance by the High Court upon the judgment of this Court in *Neeharika Infrastructure* is not apposite. The facts in the aforementioned case and the present case are quite different. The aforementioned case concerned a special leave petition filed by a complainant aggrieved by an interim order of the Bombay High Court that granted protection to the applicant therein from 'coercive steps.' The grievance of the complainant in that case was that one-and-half-years after securing protection from arrest from the Sessions Court, the accused had filed a Writ Petition before the Bombay High Court to quash the FIR.

Accordingly, this Court had quashed the interim order of 'no coercive steps' and cautioned against the practice of directing 'no coercive steps' while dismissing applications under Section 482 of CrPC. This Court had also clarified that it was not expressing any view on merits of the application for quashing of the FIR in the said case. Therefore, the High Court ought not to have relied upon the said judgment to deny the relief to the present Accused-Appellants.

25. In the circumstances, the impugned order of the High Court is set aside and consequently, the FIR dated 09.08.2017, the chargesheet dated 04.10.2017 and all consequent proceedings initiated pursuant thereto stand quashed.

The appeals are allowed in the aforesaid terms.

.....J.  
(B.V. NAGARATHNA)

.....J.  
(AUGUSTINE GEORGE MASIH)

NEW DELHI;  
JANUARY 24, 2024