

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

SUBJECT: SECTION 482 CR.P.C.

WP(Crl.) No. 768/03

.Reserved on: 28.11.2007

Date of Decision: 10.01.2008

Vijay Kumar ....

Petitioner  
Through : Petitioner in person.

versus

The State and Ors. ....

Respondents  
Through : Ms. Mukta Gupta with  
Mr. Vishal Garg, Advocates

JUSTICE SHIV NARAYAN DHINGRA

1. This petition under Article 226 and 227 of Constitution of the India read with Section 482 Cr.P.C. has been filed by the petitioner with a prayer that this Court should quash the FIR No. 524/2002 dated 26.12.2002 under Sections 457/380/341 IPC lodged against him and should also give directions to the police for registration of FIR on his complaints dated 22.12.2002, 25.12.2002, 1.1.2003 and 26.3.2003.

2. A perusal of facts would show that petitioner is owner of the house No. C-8-C, Pandav Nagar. This house was under tenancy of Mr. Dhiraj Sharma and Mr. Pinaki Ghosh at a monthly rent of Rs.1800/-. They had paid in advance a security of Rs.1800/-.

3. As per the complaint of Mr. Dhiraj Sharma and Mr. Pinaki Ghosh, Mr. Dhiraj Sharma went to the petitioner on 21.12.2002 to inform him that they will be vacating the room on 1st January, 2003 due to personal reasons. On this petitioner told him that he won't be giving him the security deposit of Rs.1800/- back since one month's notice or information in advance was not given. Petitioner misbehaved with him and told him to get out of the room and threatened that he would sent him to jail if he asked for money (security deposit) since he (petitioner) was an IAS officer. He (petitioner) then called PCR and local police. With the involvement of police and local residents, he compromised with Mr. Dhiraj Sharma on the basis that Dhiraj Sharma will vacate the property on 1st January, 2003 without asking for money. However, when everybody went away he threatened, Mr. Dhiraj Sharma that he would not spare him and teach him a lesson. To avoid any further altercations with petitioner, Mr. Dhiraj Sharma went to his relatives' house next morning. Pinaki Ghosh was out of station during the episode since he had gone to Jharkhand on demise of his father. He returned to the house on 25th December, 2002 morning and saw that their lock from the door was missing and there was a different lock. He asked the landlord how the different lock was there. Landlord (petitioner) told him that police has locked the door and police would arrest him and Mr. Dhiraj Sharma since Mr. Dhiraj Sharma locked the door keeping room lights and emulsion road in running condition since 23rd

December, 2002. He told him that in case he want to compromise he would have to pay Rs. 2,000/- and vacate the room then and there. The petitioner was told that no additional money would be paid to him as he already forfeited Rs.1800/- security amount. The petitioner then threatened that he would call the police since he was an IAS officer. Complainant then went to Pandav Nagar Police Station and enquired about the lock and was told that police had nothing to do with the lock put on the door and police was not to arrest them. Both of them again went to the petitioner who refused to open even the main door. Till 3.00 am in the night, the complainants waited for the petitioner to open the door and thereafter went to the police station. Police accompanied them but found that petitioner was not there. However, his attendant opened the locked door and let both of them inside. The complainants complained that till 3.00 am in the night they were made to stay on the road in cold weather with minimum clothings. There tenanted premises was under illegal lock of petitioner since morning. When they went upstairs to their room they found the door of their room itself was missing and their belongings were scattered all around the room. After checking they found a sum of Rs.4800/- was missing. One Aiwa walkman and 2 computer speakers, a Philips two-in-one, a times Wrist Watch were also missing. The complainant finding that even the door of the room has been removed collected their rest of the belongings and went away. They found it unsafe to remain in the room without door. They also found door of bathroom locked. Some of their belongings were inside the bathroom. They requested police to take legal action.

4. It is settled law that FIR is to be quashed in rare circumstances and only in those cases where if all the facts stated in the FIR considered true, no cognizable offence is made out. In the present case, a perusal of complaint would show that the police rightly registered the FIR under Sections 457/380/341 IPC as the facts stated in the complaint disclosed commission of above offence against the petitioner.

5. It is contended by the petitioner that this FIR was a false one and the complaint made against him was a counter blast. It is normally seen that every accused states that allegations against him are false. Merely on the assertions of the accused that allegation against him are false, no FIR can be quashed.

6. The other prayer made by the petitioner is that police should be given direction to register FIR on the basis of his complaint. It is apparent that the petitioner who was landlord did not want to pay back the security amount on the ground that notice of one month was not served upon him. When the security amount was demanded by Mr. Dhiraj Sharma, he called the police and made allegations that Mr. Dhiraj Sharma was demanding security amount at the behest of ASI Partap Singh Samwal. Petitioner wanted an FIR to be registered against ASI Partap Singh Samwal for instigating Mr. Dhiraj Sharma for assaulting him. Petitioner claimed that he was assaulted by Dhiraj Sharma. He also made allegations against Mr. Pinaki Ghosh despite the fact that Mr. Pinaki Ghosh was not at Delhi at the relevant time and had returned to Delhi only on 25th December, 2002. Status report filed by the police shows that the complaint filed by the petitioner was a false complaint.

7. In case petitioner was aggrieved by non-registration of FIR on the basis of his complaint, the recourse open to him was to either make a complaint to DCP and if that also did not give the result he was free to lodge a complaint before the concerned MM either under Section 156(3) or Section 200 Cr.P.C.

8. In view of the judgment of Hon'ble Supreme Court in Aleque Padamsee and Ors. vs. Union of India and Ors. 2007(9) Scale 275, the writ jurisdiction is not to be exercised for directing registration of FIR when an alternative remedy is available. It is also a settled law that police can make preliminary enquiry before registration of FIR to see if a cognizable offence is made out or not.

9. I find no force in the petition. The petition is hereby dismissed.

January 10, 2008

Sd./-  
SHIV NARAYAN DHINGRA, J