

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.**

**CRM-M-11593 of 2013  
Date of Decision 08.01.2015**

**Rashpal Kaur Bhullar**

**..Petitioner**

**Versus**

**State of Punjab and others**

**..Respondents**

**CORAM: HON'BLE MR.JUSTICE M.M.S BEDI**

Present: Mr. M.S. Nain, Advocate,  
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Gagandeep Goyal, Advocate,  
for respondent No.4.

**M.M.S.BEDI, J. (ORAL)**

Reply on behalf of respondents No. 1 to 3 filed in Court is taken on record.

This is a petition filed by Ms. Rashpal Kaur Bhullar seeking a direction for registration of a criminal case against respondents No. 4 and 5 alleging that she has submitted a complaint Annexure P-9 stating that respondent No. 4 had produced some impersonator on her behalf and opened an account in the bank and thereafter misappropriated the amount deposited in the joint account.

A detailed reply has been submitted by respondent No.4 alleging that the allegations in the complaint are false.

Learned counsel for the petitioner vehemently contends that cognizable offence is made out in the complaint Annexure P-9, warranting

registration of FIR whereas the private respondent has submitted that it is the petitioner who had opened the account and withdrawn the amount and utilised the amount. He has sought to rely upon number of documents indicating that it is the petitioner who had opened the account and withdrawn the amount.

It is a fact that a criminal case under Sections 406, 498-A IPC has been registered against the petitioner and her son on the allegations of having maltreated the daughter of respondent No.4. The said FIR No.73 dated 25.10.2012 under Sections 406, 498-A IPC is registered at Police Station Women Cell, Ludhiana.

After hearing counsel for the petitioner as well as counsel for the respondents, it appears that the allegations in the present petition are in the nature of economic offence. No direction can be issued for registration of FIR in the present case as registration of FIR is not mandatory in cases which involved matrimonial dispute or commercial offences. In this context reference can be made to judgment of Apex Court in **Lalita Kumari Vs. Govt. of U.P., and others 2014 (1) SCC Criminal 524** wherein the Apex Court has held as follows:

*“i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*

*ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.*

*iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure*

*must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.*

*iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.*

*v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.*

*vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:*

*a) Matrimonial disputes/ family disputes*

*b) Commercial offences*

*c) Medical negligence cases*

*d) Corruption cases*

*e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.*

*The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.*

*vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.*

*viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”*

In the aforesaid circumstances, this petition is disposed of with a direction to the Commissioner, Ludhiana Division to ensure that preliminary inquiry be conducted pertaining to the allegations in Annexure P-9 by joining the petitioner as well as respondent No.4 or any other persons who are acquainted with the facts and circumstances of the case. In case after holding preliminary inquiry, it is found that the allegations in Annexure P-9 are false, it will be open to the State authorities to file the complaint (Annexure P-9), but, however, if on preliminary inquiry it is found that some prima facie cognizable offence has been committed, it will be open to the police to initiate proceedings in accordance with law.

It is directed that since the matter is pending for the last four years, the inquiry is concluded within a period of six months after receipt of copy of this order by giving fair opportunity to both the parties. Any material voluntarily offered by any of the parties and by any witness, will not be rejected by the officer holding the inquiry.

**08.01.2015**  
*harsha*

**(M.M.S. BEDI)**  
**JUDGE**