

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

CRM-M-3363 of 2015.
Decided on:-03.05.2016.

Joginder Singh Sabbharwal and another

.....Petitioners.

Versus

State of Punjab and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Ranjit S. Dhiman, Advocate
for the petitioners.

Mr. P.S. Madahar, AAG, Punjab.

Mr. T.S. Chauhan, Advocate
for respondent No.5.

HARI PAL VERMA, J.

The petitioners have filed the present petition under Section 482 Cr.PC for quashing FIR No.106 dated 25.5.2013 under Sections 420, 406 and 120-B IPC registered at Police Station Civil Lines, Nabha Road, Patiala.

Challenge has also been laid to the Challan presented under Section 173 Cr.PC (Annexure P-13) (colly) along with all other subsequent proceedings.

At the outset, learned counsel for the petitioners has stated that

he does not press this petition qua petitioner No.2 Daljit Kaur Sabbharwal, as petitioner No.1 does not possess a valid power of attorney of petitioner No.2.

Accordingly, the present petition is dismissed as not pressed qua petitioner No.2.

Reply on behalf of respondent No.1-State has already been filed. The said reply suggests that the petitioner No.2 who is permanent resident of Canada has stayed about 15 days at Patiala in her in-laws house and thereafter, went to Canada. In the month of December, 2008, she came to India and returned back with assurance that she will call the complainant-respondent No.5 to Canada. On 11.4.2010, she sent sponsorship of complainant and demanded 10,000/- dollars from him.

The reply further reveals that on 21.4.2011, the complainant got visa of Canada and went there on 8.6.2011. However, when he reached Toronto Airport, he was taken into custody by the immigration officials as petitioner No.2-accused had got cancelled his sponsorship. Then, after remaining in custody for 80 days, he came back to India. In this manner, petitioner No.1 Joginder Singh Sabbharwal and his daughter Daljit Kaur Sabbharwal i.e. petitioner No.2 have induced the complainant and his parents to deceive approximately Rs.29-30 lacs for calling the complainant to Canada. Neither petitioner No.2 returned the money nor took the complainant to Canada.

Learned State counsel has stated that after completion of investigation, the Challan has been presented in the Court on 12.2.2014 and the charge-sheet has been framed and the prosecution witnesses are being examined.

I have heard learned counsel for the parties.

Admittedly, after registration of the case, the Challan as provided under Section 173 Cr.PC has been presented in the Court. On the basis of Challan so presented, the trial Court has framed charge-sheet against the petitioner.

The Hon'ble Apex Court in ***Manjula Sinha Versus State of Uttar Pradesh and others (2007) 12 Supreme Court Cases 503*** has held that where charge-sheet has already been filed and charges also framed, the question of quashing the FIR does not arise. The relevant para No.14 of the said judgment reads as under:

“14. The application filed before the High Court related to alleged commission of offence punishable under Sections 498-A and 406 IPC. Undisputedly the charge-sheet has been filed and the same was not in question. Charges have also been framed and, therefore, the question of quashing the FIR does not arise.”

No doubt, the parties are litigating in the matter emerges in the present case is an off-shoot of a matrimonial dispute, but considering the fact that on the basis of FIR, the police has conducted investigation and submitted Challan leading to framing of charges against the accused and

examination of prosecution witnesses, this Court does not find any justification to quash the proceedings at this stage.

In view of the above, this Court does not find any merit in the present petition and the same is, accordingly, dismissed.

However, it is made clear that the observations made hereinabove shall not be construed as an opinion on the merits of the case pending before the trial Court. The trial Court shall decide the case on the basis of evidence available on record without being influenced by the observations made in the present petition.

May 03, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE