

203

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46732-2016
Date of decision : 30.12.2016

Rajeev Khosla and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vishal Sharma, Advocate
for the petitioners.

Mr. Mikhail Kad, AAG, Punjab.

Mr. Sunil Srivastav, Advocate
for the complainant.

AMIT RAWAL, J. (ORAL)

Contents of the FIR reveal that it is purely of civil nature. Learned counsel for the petitioners relies upon the report of ADC (Annexure P-1) advising the complainant to go for a civil case, yet the police had lodged the FIR against Rohit Pahwa, but the allegations in the FIR are against the petitioners, in essence, they have been named in the FIR.

As noticed above, the contents of the FIR leave no manner of doubt that it is purely a civil case, even if, the petitioners have given an affidavit/undertaking to the complainant. Two years have already been elapsed and the period of limitation to recover the amount from the admission under Section 18 of the Limitation Act is three years. The complainant in order to recover amount is required to initiate civil proceedings in

competent Court of law, but in my view, the custodial interrogation, in the aforementioned FIR, would not be necessary despite being vehemently argued by Mr. Mikhail Kad, AAG, Punjab on instructions from ASI Angrej Singh, that the custodial interrogation is essential as the police has to recover the amount.

It is very strange that the police is not registering the FIR in the cases involving the criminal offences and people are left in lurch either to avail the remedy under Section 156 (3) or Section 184 of the Criminal Procedure Code, but in a matter involving the money transaction, it is happily registering the FIR, despite the fact that there is a report of ADC advising the complainant to avail the civil remedy in law. The police, thus, hounds the named accused in the FIR owing to the financial implications.

Without further commenting upon the role of the police, I deem it appropriate to allow the anticipatory bail of the petitioners.

Accordingly, the petition is allowed and in case of arrest of the petitioners shall be released on bail to the satisfaction of the Arresting Officer, subject to the conditions contained in Section 438 (2) Cr.P.C., and they will join the investigation as and when required.

30.12.2016

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**