

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

CWP No. 19992 of 2015

Date of decision: 1.04.2016

Pawandeep Singh Bedi and others

.....Petitioners

versus

UT of Chandigarh and others

.....Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Vikram Chaudhry, Sr. Advocate with
Mr. Sartaj Singh, Advocate
for the petitioners.

Mr. Vikram Vir Sharda, Addl.Standing Counsel
for respondents No. 1 to 5.

Mr. Palvinder Singh Sarna, Advocate
for respondent No. 6.

Rakesh Kumar Jain, J.(Oral)

This petition is filed by the husband, widowed mother-in-law and married sister-in-law of respondent No. 6 who entered into matrimony with petitioner No. 1 on 12.10.2013 as per Sikh rites.

The petitioner No. 1 and respondent NO. 6 have no child. However, due to incompatibility, they are litigating for seeking divorce, filed at the instance of respondent No. 6, on the ground of cruelty etc.

The present petition has been filed when respondent NO. 6 made a complaint to the Senior Superintendent of Police, Chandigarh against the present petitioners for the demand of

dowry, harassment, torture and misappropriation of dowry articles/istridhan etc. Before the complaint is converted into an FIR, the present petition is filed for handing over the same to an independent agency or by way of constitution of Special Investigation Team as the petitioners are afraid that there would be no free, fair and impartial investigation from the official respondents No. 1 to 5.

When the petition was initially listed on 5.10.2015, counsel for the petitioners had submitted that there are chances of an amicable settlement between the parties, if the matter is referred to the mediation. The Court had thus, issued notice to the respondents and restrained the police from taking any coercive action against the petitioners till then. It is an admitted case that the parties had appeared before the mediation centre of the District Court but could not reach to any amicable resolution of their mis-understandings much less disputes.

Counsel for the petitioners has submitted that though there is no FIR at present and the matter is still under investigation but by relying upon the decision of the Supreme Court in *Lalita Kumari vs. Govt. of U.P. and others 2013(4) R.C.R.(Criminal) 979*, it is submitted that in case of matrimonial dispute/family dispute registration of FIR is not automatic but it depends on preliminary inquiry to be conducted. It is submitted that the petitioners may be protected from any kind of harassment at the hands of official respondents or the private respondents in the matter of registration of the FIR.

On the other hand, respondent No. 6 has submitted that

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the present petition does not survive because notice in the petition was issued only on the issue of giving a chance to the parties to an amicable settlement. It is further submitted that since the mediation has already failed, therefore, the present petition has out lived its life and should be dismissed. Otherwise, on merits, it is submitted that the petition is not maintainable in the present form as there is no criminal proceedings pending against the petitioners much less by way of an FIR which is yet to be registered. It is submitted that only a complaint has been filed on 16.03.2015 in which inquiry is still on.

Counsel for respondents No. 1 to 5 has also submitted that there is no allegation made by the petitioners in the petition against them about their misbehaviour etc. to give the petitioners cause of action for asking for investigation by independent agency or constitution of Special Investigation Team.

I have considered the rival contentions of the parties.

At this stage, counsel for the petitioners prays for withdrawal of the petition reserving his right to challenge the FIR, if any, registered against the petitioners, in accordance with law.

Dismissed as withdrawn.

Liberty granted.

1st April, 2016

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**