

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

CRM-M-1945 of 2017

Date of Decision:20.04.2018

Richpal Singh Sandhu

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.P.K. Jain, Advocate for the petitioner.

Mr.P.P.Chahar, DAG, Haryana.

Mr.Chander Kant Thakur, Advocate for

Mr.Satbir Rathore, Advocate for respondent No.2.

JAISHREE THAKUR J. (ORAL)

This is a petition that has been filed seeking quashing of FIR No.96 dated 18.04.2016, under Sections 66-C of the Information Technology Act, 2000, Section 354 (D) of Indian Penal Code, registered against the petitioner at Police Station Sector 17/18 Gurgaon on the statement of complainant, namely, Nisha Singh daughter of Avadh Bihari Singh.

Brief facts are that the son of the petitioner Harjeet Singh solemnized a marriage with the complainant as far back as February 02, 2014. However, on account of the differences, the parties decided to end the marriage and filed a petition under Section 13-B of the Hindu Marriage Act on 07.08.2015 before the District Judge, Family Court, Gurgaon. The said petition was allowed and a decree of divorce was granted on 15.02.2016 and a sum of Rs.5 lacs has been settled as full and final settlement and future maintenance payable to the complainant. Thereafter, the petitioner herein filed a criminal complaint against Nisha Singh-respondent No.2 on the ground that she was harassing the petitioner and his son, despite the fact that a decree of divorce had

been obtained. Nisha Singh also filed a suit for declaration to have the judgment and decree of divorce set aside. At the same time, an FIR No.96 dated 18.04.2016 was also registered against the petitioner and his son on the ground that a photograph of her had been uploaded on a porn website.

Learned counsel for the petitioner prays for quashing of the said FIR on the ground that lodging of the FIR is nothing but sheer harassment in order to extract some more money.

Mr.P.K. Jain, learned counsel appearing for the petitioner contends that he has no role to play in putting the photograph on the porn website, and in fact a thorough and proper investigation should have been done to locate the source as to where the photograph had been uploaded.

Mr.Jain, also contends that continuance of the FIR is not sustainable on account of the fact that in the anticipatory bail application No.115 of 2016, which had been preferred under the FIR, the investigating Officer had admitted that the petitioner had no role to play in the uploading of the photograph on the website and, he had been named in the FIR only on the fact that he was father of the accused i.e. Harjeet Singh and that he was power of attorney holder and pursuing his litigation.

Per contra, learned counsel appearing on behalf of the respondent-State submits that the Laptop which had been used for uploading the photograph has been found and recovered from the premises of the petitioner herein and, therefore, he is accomplished to the said matter.

I have heard learned counsel for the parties and have perused the pleadings of the case.

Admittedly an FIR came to be registered at the behest of respondent No.2/complainant on an allegation that her photographs had been uploaded on a

porn website after a decree of divorce had been obtained. The petitioner herein had applied for anticipatory bail in the said matter and the investigating Officer himself had submitted in Court that the petitioner had no role to play in the said Act and he had been roped in the matter only on account of the fact the he was the father and only role attributed to him was of holding a power of Attorney and looking after the litigation pertaining to his son. It is not in dispute that the son of the petitioner has since been arrested and his statement has been recorded on 14.11.2017. In the said statement it has clearly been stated that the laptop which he has used to upload the nude photographs of the complainant that he had been sent back with his friend who studying in New Zealand to his parents.

In view of the fact that the main perpetrator of the crime of the offence stands arrested and he has made a disclosure that he had uploaded the nude photographs and thereafter deleted the said photographs and sent back the laptop used for such uploading from New Zealand to Gurgaon to his parental home, it cannot be said that there is any connivance on the part of the father herein.

It is settled law that the High Court has the power under Section 482 Cr.P.C. to quash the proceedings in an FIR if the same is an abuse of the process of law. Reference in this regard is made to judgments rendered in **State of Haryana Vs. Bhajan Lal** AIR 1992 SC 6021 and later in **Parbat Bhai Ahir and others Vs. State of Gujrat and another** (2017) 9 SCC 641. The facts as emerge in the instant case are such that makes it a fit case to allow the petition.

In view of the above, this Court feels no hesitation in quashing the FIR, as the same is sheer abuse of the process of law. Accordingly, the instant petition is allowed and FIR No.96 dated 18.04.2016, under Sections 66-C of the Information Technology Act, 2000, Section 354 (D) of Indian Penal Code,

registered against the petitioner at Police Station Sector 17/18 Gurgaon are hereby quashed against the petitioner.

(JAISHREE THAKUR)
JUDGE

20.04.2018
Anjal

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No