

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No.M-43376 of 2015 (O&M)
Date of decision : 03.07.2018

Sukhwinder Kaur alias Rani

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Anil Chaudhary, Advocate
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(Oral)

The petitioner has preferred the instant petition for quashing of FIR No.68 dated 11.03.2015, registered under Sections 420, 406, 120-B IPC at Police Station City Khanna, District Khanna and consequential proceedings arising therefrom qua him.

Briefly stated, it is a case of the prosecution that the petitioner alongwith her five more associates duped the petitioner for an amount of Rs.3,75,000/- for sending him abroad. The FIR was registered for the offences under Sections 420, 406, 120-B IPC.

The learned State counsel has submitted that the petitioner could not be arrested, as such, the investigation is kept in abeyance.

The Hon'ble Supreme Court in *State of Haryana and others versus Ch. Bhajan Lal Ors. 1999 AIR (SC) 604* has made the following observations:-

“In the backdrop of the interpretation of the various relevant

provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- 1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.*
- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.*
- 5. Where the allegations made in the F.I.R. or complaint*

are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
7. *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

A bare perusal of the FIR transpires that serious allegations have been levelled against the petitioner and those are subject to proof before a regular trial.

Prima facie, it cannot be said that the allegations levelled against the petitioner are false.

The petitioner has placed on record the photostat copy of her passport No.F 6539937 which was issued for a period of 21.02.2006 to 20.02.2016. On page No.20 of the said passport, it is mentioned that she had gone to foreign country on 19.04.2013. But it is alleged in the FIR that payment was made to all the accused in May, 2013.

This Court has considered this contention. It seems that the FIR was lodged much after payment of the amount. Whether the amount was paid to the petitioner or to any other person is a matter of evidence that shall be proved during the trial. Mere production of the photostat copy of

the passport is of no avail to the petitioner as those are also subject to legal proof.

Keeping the overall view of the matter in dispute, this Court is of the considered opinion that no ground to quash the aforesaid FIR is made out at this stage.

Accordingly, the instant petition stands dismissed.

03.07.2018
mamta-M

(RAJ SHEKHAR ATTRI)
JUDGE

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