

**CRM-3063-2018 in/and
CRM-M-6555-2016**

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

**CRM-3063-2018 in/and
CRM-M-6555-2016 (O&M)
Date of Decision: 06.02.2018**

Rajinder Kaur

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jagjit Singh, Advocate,
for the applicant-petitioner.

Mr. H.S. Grewal, Addl. Advocate General, Punjab.

None for respondent no. 4.

AMOL RATTAN SINGH, J. (ORAL)

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Application is allowed, subject to all just exceptions.

Annexure P-8 is ordered to be taken on record.

CRM-M-6555 of 2016

By this petition, the petitioner seeks quashing of FIR No. 36 dated 01.04.2015, registered at Police Station Nangal, District Rupnagar, alleging therein the commission of offences punishable under Section 406/420/120-B IPC, against her and her husband, i.e. respondent no. 4 (Hitesh Kumar Sood), the complainant in the FIR being respondent no. 3, Madan Mohan.

Mr. Jagjit Singh, learned counsel for the petitioner, points out that, as a matter of fact, the petitioner herself has been duped by her husband, who has

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abandoned her, with his whereabouts now not known. He has played a fraud on her for which she has also got registered FIR No. 0172 dated 11.10.2016, alleging therein the commission of offences punishable under Sections 406, 498-A and 494 IPC, a copy of which is Annexure P-8, taken on record today itself.

More importantly, learned counsel for the petitioner points to the photocopy of the affidavit stated to have been executed by the complainant, i.e. respondent no. 3 Madan Mohan, which it is stated was submitted actually in the Court of the learned Additional Sessions Judge, Rupnagar, at the time when the petitioner applied for bail under Section 439 Cr.P.C.

The aforesaid affidavit also finds mention in the order of that Court dated 10.11.2015, Annexure P-5, wherein it is also stated that the complainant, Madan Mohan, was actually present before that Court and had filed the affidavit himself, to the effect that the parties have effected a compromise and he had also got a statement recorded before the police stating as above.

In the aforesaid circumstances, upon query to learned State counsel, he does not deny the fact that the aforesaid compromise did take place between the petitioner and the complainant, but submits that a fraud having been allegedly committed by her in conspiracy with her husband, the FIR does not deserve to be quashed.

Having considered the aforesaid arguments, it is firstly to be noticed that respondent no. 3 is shown to have been served of notice issued in this petition, even as per the report of the Registry, prior to 07.07.2016. However, he has chosen never to appear before the Court, either in person or through counsel.

Respondent no. 4, i.e. the husband of the petitioner, also stands served and was earlier being represented by Sh. Ashish Gupta, Advocate, who continued to appear till 12.12.2016, but the turn of the case not having come up for actual

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hearing thereafter, naturally presence of no counsel is shown thereafter.

Today he is not present.

Even so, non-presence of counsel for respondent no. 4, i.e. the co-accused of the petitioner, who is stated to be her husband, would not make any difference as regards the merits of the case in favour of the petitioner, in the aforesaid circumstances, with actually even the FIR mainly raising all allegations against her husband Hitesh Kumar Sood, i.e. respondent no. 4.

At one stage of course it is stated that the first payment of Rs. 1,50,000/- was made to the petitioner, Rajinder Kaur, in December 2011, by the complainant; however, in view of the complainants' statement before the learned Additional Sessions Judge, at the time when the petitioner was granted bail by that Court, accompanied by his affidavit to that effect, obviously shows that as regards the petitioner he has no grievance left, and in fact it would be doubtful in the opinion of this Court, whether the petitioner was actually involved in actually duping the aforesaid respondent or was simply named in the FIR to try and put pressure on her husband, who it is stated has been absconding for a long time.

Consequently, this petition is allowed and FIR No. 36 dated 01.04.2015, registered at Police Station Nangal, District Rupnagar, alleging therein the commission of offences punishable under Sections 406/420/120-B IPC against the petitioner and her co-accused, is hereby quashed qua the petitioner herein only (Rajinder Kaur), with proceedings against respondent no. 4 and any other accused found by the investigating agency, to continue as per law.

February 06, 2018

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Whether speaking/reasoned

Whether Reportable

**(AMOL RATTAN SINGH)
JUDGE**

Yes

Yes