

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28891-2015 (O&M)

Date of decision: 23.07.2019

Appan Pahwa and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. N.S. Rapri, Advocate
for the petitioners.

Mr. Jagmohan Ghumman, DAG, Punjab.

Mr. Rishav Jain, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of FIR No.112 dated 04.07.2015 under Sections 406, 420, 448, 120-B of the Indian Penal Code (for short 'IPC'), registered at Police Station Dehlon, District Ludhiana and all the subsequent proceedings pending in pursuance thereof.

Brief facts of the case are that the aforesaid FIR was got registered by complainant Satpinder Kaur, against Appan Pahwa, his wife Mani Nayyar and Vikramjit Nayyar with the allegations that they have

cheated the complainant for Rs.5.00 lacs. It is stated that husband of the complainant had employed Mani Nayyar, wife of petitioner No.1, however, she had bad intention to cheat her husband and later, she demanded Rs.5.00 lacs from the complainant for the purpose of her marriage. The complainant, who is a govt. servant, obtained a loan of Rs.5.00 lacs and by adding another Rs.1.00 lac from her pocket, she gave it to Mani Nayyar. Some amount was returned, however, later on, Mani Nayyar left the job and had also taken various documents relating to business of husband of the complainant. It is further stated that the accused persons have failed to return the amount and further by misusing the documents, they made company of husband of the complainant to suffer huge losses in crores. Thereafter, the accused persons were threatening the complainant, therefore, the impugned FIR was registered.

Learned counsel for the petitioner submits that primarily, it is a civil dispute arising out of money transaction between the complainant and the petitioners and therefore, the present FIR is liable to be quashed. It is further submitted that even on an earlier occasion, daughter of petitioner No.2 had given a complaint to Punjab Human Rights Commission, Chandigarh, however, outcome of the same is not produced on record. Learned counsel further submits that though the petitioners have paid certain amount by way of installment, yet the petitioners have been falsely implicated in the FIR and therefore, it being a malafide prosecution, same is liable to be quashed in view of the judgment of the Hon'ble Supreme Court in **State of Haryana Vs. Bhajan Lal, 1991 (1) RCR (Crl.) 383.**

In reply, learned State counsel, on the basis of affidavit of Assistant Commissioner of Police (Gill-Rural), Ludhiana and on instructions from the Investigating Officer, has submitted that after registration of the FIR, the matter was inquired into; the police submitted the challan; charges were framed on 26.10.2016 and thereafter, 03 prosecution witnesses have already been examined.

Learned counsel for respondent No.2-complainant has argued that even the anticipatory bail granted to the petitioners was dismissed, as they had concealed the facts and further reiterated the arguments that since the case is at the stage of recording the prosecution evidence; charges under Sections 420, 406, 201, 65, 72, 120-B IPC have already been framed, therefore, the present petition is not maintainable.

After hearing learned counsel for the parties, I find no merit in the present petition, for the following reasons: -

- (a) The petitioners have neither placed on record the report under Section 173 Cr.P.C. to apprise the Court about the investigation conducted by the police nor have placed on record the order framing charges, though it were framed during pendency of the present petition, but no efforts were made to bring it to the notice of this Court.
- (b) This petition is pending since 2015 and in the intervening period, the proceedings before the trial Court were going on and three prosecution witnesses including the complainant have been examined and as per version of the complainant, they have

supported the prosecution case.

- (c) In the petition, the petitioners have levelled bald allegation that the FIR has been registered with a malafide motive, or that it is a civil dispute, but the same is not supported by any evidence.

Therefore, on the face of it, looking into the allegations levelled in the FIR and also considering the fact that charges have been framed and the case is at the stage of recording the prosecution evidence, I don't find it to be a case falling within the ambit of guidelines laid down by the Hon'ble Supreme Court in **Bhajan Lal's** case (supra).

Accordingly, the present petition is dismissed. However, liberty is granted to the petitioners to raise all the pleas/defences during the course of trial.

[ARVIND SINGH SANGWAN]
JUDGE

23.07.2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No