

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-29515 of 2020 (O&M)

Date of decision : 1.12.2020

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Neeraj Malhotra @ Mona

.....Petitioner

vs.

State of U.T. Chandigarh and another

.....Respondents

**Coram: Hon'ble Mr. Justice H. S. Madaan**

Present: Mr.Sandeep Gehlawat, Advocate  
for the petitioner.

Mr. Rajiv Sharma, APP, for  
U.T., Chandigarh.

Mr. Paras Talwar, Advocate for  
respondent No.2- complainant.

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**H. S. Madaan, J. (Oral)**

Case taken up through video conferencing.

**CRM-27956-2020**

This is an application for placing on record documents

Annexures P-5 to P-15.

The application is allowed.

Documents, Annexures P-5 to P-15 are taken on record  
subject to all just exceptions.

Main case.

Petitioner – Neeraj Malhotra @ Mona, aged about 45 years, w/o Vikram Malhotra, resident of House No. 717 Sector 40-A, Chandigarh, presently residing at Kothi No. 669, Phase 2, District Mohali, an accused in FIR No. 204, dated 22.6.2020, for offences under Sections 448, 380, 405, 120-B, 506, 34 IPC, registered at Police Station Sector 39, Chandigarh, seeks quashing of the said FIR alongwith subsequent proceedings.

The FIR in question was registered on the basis of written complaint submitted by complainant Amanjot Singh s/o Parmjit Singh, resident of 706/1, Model Gram, Ludhiana, Punjab, addressed to SHO, Police Station, Sector 39, Chandigarh, wherein he had stated that his paternal uncle S. Harbhajan Singh is owner and resident of House No. 717, Sector 40-A, Chandigarh; that in April 2019, S. Harbhajan Singh and his wife had gone to meet their children in America; that about 4-5 days earlier S. Harbhajan Singh called him and told that on 1.5.2019, he had executed a lease agreement of a big portion of the house in favour of one Jayesh Panchal s/o Bharat Bhai Panchal for a period of 11 months and received a sum of Rs.58,000/- from him as security, but after 7 months, Jayesh Panchal stopped paying rent to him informing S. Harbhajan Singh that he would vacate the house within 1-2 months; that subsequently S. Harbhajan Singh did not hear anything from Jayesh Panchal. After that telephonic conversation, complainant Amanjot Singh being General Power of Attorney holder of Harbhajan Singh and a care taker of that

house, on 20.6.2020 alongwith his wife and children went to House No. 717 at about 12.30 in the noon and found that Neeraj Malhotra w/o Vikram Malhotra, aged about 40-45 years was there, who without any reason or talk removed her shirt and started giving abuses to him and scuffled with the complainant and his family. In the meanwhile, two more unknown ladies and one Sikh young boy came there and attacked family of the complainant. After some time, brother of the complainant reached at the spot. In the complaint, the complainant contended that Neeraj Malhotra alongwith others are in illegal possession of House No. 717 Sector 40-A, Chandigarh and house be got vacated. On the basis of this written complaint, formal FIR was registered.

The petitioner-accused has filed the instant petition contending that the dispute between the parties is of civil nature and the complainant has managed to get the FIR registered in order to put pressure on the petitioner and co-accused Jayesh Panchal, to vacate the premises. It was rather complainant, who alongwith his accomplice had trespassed in the house on 20.6.2020 and tried to outrage the modesty of the petitioner using derogatory language. The police was informed. The petitioner was got medico legally examined and the police initiated security proceedings under Sections 107/151 Cr.P.C., which are pending before SDM, Sector 42, Chandigarh. According to the petitioner, no offence is disclosed from the allegations in the FIR. Therefore, it be quashed, being abuse of the process of the law.

Notice of the petition was given to the State and the complainant, who have put in appearance through counsel.

I have heard learned counsel for the petitioner, learned counsel appearing for U.T., Chandigarh and learned counsel for the complainant, besides going through the record.

The case is admittedly at the stage of investigation. What so ever pleas, the petitioner wants to put forward, can be done before the Investigating Agency, which may then take those into consideration. The purpose of lodging of FIR is to set the criminal machinery into motion. The FIR may not contain the detailed version of the incident. The first information report is lodged with the police with regard to the commission of a cognizable offence, so as to enable the police to look into the matter and to conduct the investigation therein. It is only during the investigation that the complete story gets unfolded i.e. as to whether there is any truth in the allegations in the FIR, if so, whether they disclose commission of any cognizable offence, the persons involved in the incident, the role played by each one of them, previous planning with regard to the commission of offence etc. The FIR can be quashed under exceptional circumstances, when it either does not disclose commission of any cognizable offence or is abuse of process of law or for any justifiable reason. In the present case, the petitioner is specifically named in the FIR and serious criminal acts are attributed to her. There is nothing to suggest that it is an abuse of process of law or that it does not disclose commission of any cognizable offence.

Nevertheless, as already observed Supra, the petitioner can certainly present her version before the Investigating Agency and if her version is found to be correct, then the police may not forward her to face trial by filing challan against her in the Court and if allegations in the FIR are found to be false, then proceedings under Section 182 Cr.P.C. can be initiated against the petitioner. However, since after registration of the FIR, the matter is still being probed and the Investigating Agency is collecting evidence with regard to the incident, it would not be proper and appropriate to jump to a conclusion and quash the FIR. All the pleas sought to be taken in the present petition can certainly be raised before the Investigating Officer, which can then be taken into consideration by him.

Learned State counsel has informed that the petitioner is involved in several criminal cases and in three cases, she has been declared as proclaimed offender, showing criminal bent of mind of the petitioner, the details of which are as under:-

1. FIR No. 587/19, u/s 174-A, Police Station 5, Panchkula, Haryana; - (P.O.)
2. FIR No. 534/19, u/s 174-A, Police Station 5, Panchkula, Haryana;
3. FIR No. 93 dt. 12.7.2019, u/s 174-A, Police Station Phase 8, Mohali; - (P.O.)
4. Surinder Pal Singh vs. Neeraj Malhotra, u/s 138 NIA – P.O.
5. Jaswant Singh s/o Late Darshan Singh r/o Anand Gali, Opposite ITI School for Girls Kaccha Toaba, Hoshiarpur

vs. Neeraj Malhotra, r/o 669, Sector 54, Phase 2 Mohali, -  
u/s 138 NIA - (P.O.)

This Court at this stage is not to hold parallel investigation/probe, so as to adjudicate the controversy on merits. It is the task of the Investigating Officer, which is being done by him.

Finding no merit in the petition, the same stands dismissed.

**1.12.2020**  
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**( H.S. Madaan )**  
**Judge**

Whether speaking / reasoned                      Yes / No

Whether reportable                                      Yes / No