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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51353-2021

Date of Decision: December 09, 2021

Archana

.....Petitioner

Versus

Bijender

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Ms.Alisha Soni, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.

Petitioner has approached this Court by way of this petition praying for quashing of impugned order dated 11.02.2021 passed by learned Sessions Judge, Hisar, vide which revision petition of the petitioner was dismissed and the order dated 03.02.2020 passed by learned JMIC, Hisar was upheld.

Counsel for the petitioner has argued that the complainant filed a complaint under Section 156(3) Cr.P.C. for registration of the FIR, however, learned JMIC did not appreciate the same in accordance with the spirit of the law and instead of directing the police to investigate and register the FIR on the same, decided to take the preliminary evidence of the complainant, which was totally against the spirit of the law. Thus, he illegally declined to entertain the complaint vide his order dated 03.02.2020. She further argued that the petitioner impugned the same by way of filing a revision petition before the learned Sessions Judge, Hisar. She submits that

even the learned Sessions Judge failed to appreciate the facts and law settled and hence illegally dismissed the revision petition vide his order dated 11.02.2021.

I have heard learned counsel for the petitioner and perused the record.

It is apparent that the petitioner had earlier got registered FIR No.499, dated 29.09.2019 under Sections 376(2)(c) and 506 IPC against the respondent and after investigation, the same was cancelled. Thereafter, on the similar allegations, the petitioner again filed the present complaint against the respondent under Sections 406, 420, 467, 468, 471, 376 and 506 IPC. The allegations levelled in the complaint were already investigated by the police and were found to be false and because of this FIR No.499 was cancelled. The precise argument raised by learned counsel for the petitioner is that the Court was bound to send his complaint to the police for registration of the FIR, however, by catena of judgments, it is settled that the Magistrate is not bound to send complaint to the Investigating Agency in a mechanical manner. The provisions of Section 190 read with Section 200 Cr.P.C. empowers the Magistrate to take cognizance of the complaint filed before it. In the present case where the earlier FIR lodged by the petitioner was duly investigated and cancelled, in my considered opinion, the Magistrate did not commit any illegality in proceeding for taking cognizance and asking the complainant to lead the preliminary evidence. Similarly, the learned Sessions Judge has duly appreciated the contentions raised by learned counsel for the petitioner and the law settled and thereafter declined to interfere in the conclusion arrived at by the learned Magistrate.

Resultantly, I find no illegality in the conclusion drawn by both

the Courts below and thus, the petition being devoid of any merit is hereby dismissed.

December 09, 2021
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |