

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

1. CRM-M-6459-2020 (O&M)

Renu Sud Karnad and another

...Petitioners

Versus

State of Haryana and another

...Respondents

2. CRM-M-42643-2020 (O&M)

Renu Sud Karnad and another

...Petitioners

Versus

State of Haryana and another

...Respondents

Date of decision: 04.05.2022

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Kartik Gupta, Advocate
for the petitioners in both the petitions.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Mansur Ali, Advocate
for respondent No. 2 in both petitions.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions.

Prayer in these petitions is for quashing of FIR No. 24 dated 23.01.2020 and FIR No. 38 dated 11.02.2020, both registered under Sections 406, 420, 467, 468 and 471 of the IPC at Police Station Pinjore, District Panchkula along with all the subsequent proceedings arising therefrom.

While issuing notice of motion on 13.02.2020 in CRM-M-6459-2020, the following order was passed:

“Learned senior counsel submits that from a bare perusal of the FIR, which run into 32 pages, it is apparent that the same has been drafted by a legal expert.

Learned senior counsel refers to operative part of the FIR, wherein both the petitioners are referred as accused Nos. 10 and 11 and submits that the only allegation is that they, in connivance with Ireo Five River Pvt. Ltd., have extended huge loan to builder. It is also stated in the FIR that while granting loan, by way of four party agreements i.e. between HDFC Ltd., to which the petitioners represent, the developer/builder Ireo Five River Pvt. Ltd. as well as the complainant, who is one of the proposed home buyers, very harsh conditions have been laid down on the loan agreement though it was voluntarily signed by her. Learned senior counsel further submits that in fact the complainant herself remained Vice President of the colonizer for a long time and has registered the present FIR, where recovery proceedings were initiated by HDFC Ltd. under SARFAESI Act.

Learned senior counsel relies upon the judgment of Hon'ble Supreme Court rendered in ***Lalita Kumari vs. State of U.P. and others, 2013 (4) R.C.R. (Criminal) 979***, wherein it has been held that in case of economic offences, the police, before registration of the FIR, may conduct a preliminary inquiry, whereas no such inquiry was conducted in the present case despite the fact that loan was granted in the year 2013 and a perusal of the FIR shows that even before registration of the same, no legal opinion was obtained from the District Attorney (Legal).

Learned senior counsel further relies upon the judgment of Hon'ble Supreme Court rendered in ***Mrs.***

Priyanka Srivastava and another vs. State of U. P. and others, 2015 (2) R.C.R. (Criminal) 1034, wherein it has been held that while entertaining the complaint under Section 156(3) Cr.P.C. or directing to register an FIR against a bank official, who has extended financial benefits/loan etc., an inquiry with caution and circumspection should be conducted before initiating the prosecution, however, no such procedure was followed in the present case.

Notice of motion for 18.05.2020.

The Commissioner of Police, Panchkula is directed to re-verify the investigation of the FIR regarding allegations against the petitioners in light of aforesaid judgments of Hon'ble Supreme Court and file a specific affidavit in this regard on or before the next date of hearing.

The District Attorney (Legal), Panchkula is also directed to file an affidavit whether before registration of the FIR, any legal opinion was taken by the Inspector who registered the FIR and if any preliminary inquiry was conducted in this regard.

In the meantime, no coercive action shall be taken against the petitioners and they will not be called by the police officials.”

Reply, filed by way of the affidavit of the Commissioner of Police, Panchkula is on record, in which it is stated that an inquiry was conducted by the Economic Offence Wing, Panchkula. Status report by way of the affidavit of the Assistant Commissioner of Police, Kalka, Panchkula has also been filed in CRM-M-42643-2020. The first paragraph of the same reads as under:

“That F.I.R No- 038, Dated 11/02/2020 in P.S Pinjore, on the complaint of complainant namely Sh. Randeep

Lather against 13 accused persons and the petitioner was one of them. That during the investigation, the complaint has been thoroughly investigated and during investigation, all the record of the complainant, company-IREO Fiveriver Private Limited and the office of Director, Town and Country Planning Haryana at Chandigarh were seized and thoroughly scrutinized. During investigation, it was found that Complainant and Company had entered into civil contract regarding sale-purchase of an apartment. That non-fulfillment of the obligations by any party is purely a civil matter and violation of the terms of license, if any is a matter to be dealt with by the Director, Town and Country Planning, Haryana at Chandigarh in accordance with the Haryana development and regulation of Urban Areas Act, 1975 and the rules framed there under. On the basis of the evidences no criminality was found to have been committed, hence cancellation report in respect of the above FIR has been prepared on dated 27/07/2020 and the same has been submitted before the court of Ms. Diksha Dass Ranga, Sub Divisional Judicial Magistrate, Kalka on dated 06.01.2021. The Ld. Trial court has registered the case as UCR/4/2021 and issued notice to complainant for appearance on 10-02-2021 and on the same the complainant appeared before the Ld. Trial Court with his counsel and requested for adjournment for filing protest petition and the case is now adjourned to 12.04.2021.”

Learned senior counsel for the petitioners submits that though the cancellation report has been submitted in aforesaid FIR No. 38, however, the petitioners apprehend their repeated involvement in multiple FIRs, without there being any role of the petitioners.

Learned counsel for the State as well as learned counsel for the

complainant have not disputed the factual position.

After hearing learned counsel for the parties, the present petitions are disposed of with a direction to the police authorities that as and when any complaint is filed against petitioners Renu Sud Karnad and Madhumita Ganguli, they will first conduct a preliminary inquiry after seeking an opinion from the District Attorney and then will proceed further in accordance with law.

A photocopy of this order be placed on the file of other connected case.

04.05.2022
Sonia

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No