

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(201)

1. CRM-M-20997-2019

Richa SinghPetitioner

Versus

State of Haryana and anotherRespondents

2. CRM-M-21097-2019

Indu Bala JadonPetitioner

Versus

State of Haryana and anotherRespondents

Date of Decision: - 19.01.2022

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Diljit Singh Ahluwalia, Advocate,
for the petitioner (in both the petitions).

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Manish Soni, Advocate and
Mr. Abhilaksh Grover, Advocate
for respondent No.2.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This order will dispose of two petitions filed by two
petitioners for grant of anticipatory bail in FIR bearing No.232 dated

22.04.2019, under Sections 420, 467, 468, 471 and 120-B IPC, registered at Police Station Sector 53, Gurugram.

First petition has been filed by petitioner-Richa Singh i.e. CRM-M-20997-2019, who is the wife of respondent No.2-Praveen Prafulla Jakate/Complainant. Second petition has been filed by petitioner-Indu Bala Jadon i.e. CRM-M-21097-2019, who is the mother-in-law of respondent No.2-Praveen Prafulla Jakate/Complainant. With the consent of all learned counsel for the parties, CRM-M-20997-2019 is being treated as the lead case.

The FIR in the present case was registered on the statement of respondent No.2-Praveen Prafulla Jakate/complainant, who has alleged that his wife as well as his mother-in-law had committed offences punishable under Sections 420, 467, 468, 471 and 120-B IPC and has stated that he had given his consent to become a Director of M/s ASWIMED Private Limited on assurances given by the petitioners i.e. Richa Singh and Indu Bala Jadon, to the effect that he would be paid a fee of Rs.20,00,000/-. It has been further alleged that the complainant helped the accused persons by investing considerable time and effort to develop their business further and on 21.04.2018, petitioner-Richa Singh asked the complainant via email to share his digital signature certificate, but when the complainant asked the said petitioner reasons for the same, she could not reply satisfactorily and thereafter, on 23.04.2018, a second email from Mohini Singhal (CA- Barwal Associates) was received by the complainant whereby, the complainant was asked to share his digital

signature certificate as the same was required to intimate the Registrar of Company about the resignation submitted by the complainant. It has been alleged by the complainant that he never responded to the said email as he never wanted to resign from the company and in fact, had never resigned from the company and on 05.12.2018, he was shocked to receive certain documents, which included his resignation letter. It has further been alleged that the said resignation letter dated 12.04.2018 is a forged and fabricated document and when the complainant contacted the chartered accountant of the company, he learnt that there were several occasions when the board resolutions were passed without his information and consent. It has further been alleged that the said resignation letter has been forged without his knowledge and consent so as to avoid the payment of fees to him. Reference in the FIR has also been made to the earlier complaint filed by the petitioner-Richa Singh under Section 377 IPC against the complainant. On the basis of said allegations, the present FIR has been registered.

On 08.05.2019, a Co-ordinate Bench of this Court was pleased to pass the following order in CRM-M-20997-2019: -

“Estranged spouses, who claim to be literate, least concerned about their matrimonial obligations, but very well conscious about financial interest, are fighting against each other. Respondent No.2/husband has registered the present FIR under Sections 120-B, 420, 467, 468, 471, IPC; whereas the petitioner/wife got registered an FIR No.103 dated 16.08.2018 (P-14 colly.), under Sections 323, 377, 506 & 509, IPC at Women Police Station, Sector 51, Gurugram against her

husband. It seems that both are lacking mutual respect to each other on account of temperamental differences.

Notice of motion for 15.07.2019.

In the meanwhile, the petitioner is directed to join the investigation before the Investigating Officer. In the event of her arrest, the Arresting Officer would admit her to interim bail in the present case till the next date of hearing on her furnishing adequate bail and surety bonds to his satisfaction. The petitioner is also directed to abide by all the conditions as envisaged under Section 438(2) Cr.P.C

May 08, 2019

Gagan

(MAHABIR SINGH SINDHU)

JUDGE”

On 13.11.2019 when the matter was taken up by a Co-ordinate Bench of this Court, counsel for the petitioner and the complainant apprised the Court that an attempt to compromise the matter was being made and the matter was pending before the Mediation and Conciliation Centre of this Court and accordingly, the interim order was ordered to continue.

FIR no. 103/2018 dated 16.08.2018 under Section 323, 376, 377, 506 and 509 IPC was filed by Petitioners-Richa Singh against Respondent No. 2. Two FIRs i.e. FIR no. 232/2019 dated 22.04.2019 under Sections 120B, 420, 467, 468 and 471 IPC and FIR 293/2019 dated 04.06.2019 under Sections 120B, 420, 406, 474, 477A, 471, 467 and 468 IPC was got registered by Respondent no.2 against the present petitioners. Various petitions filed under Sections 482, 438 Cr.P.C. and Article 226 of the Indian Constitution were filed by both the parties before this Court seeking anticipatory bail/quashing of FIR. Most of the aforesaid matter were being heard

together. Petitioners- Richa Singh and Indu Bala Jadon had filed a Special Leave to Appeal against the judgment of a Co-ordinate Bench of this Court dated 26.09.2019 passed in CWP-16040-2019. The Hon'ble Supreme Court of India after hearing learned counsel for the parties was pleased to pass the following order on 22.11.2019: -

“The present Special Leave Petition has been filed by the Petitioner-Wife and her mother wherein she has prayed that the investigation arising out of the second FIR dated 4th June, 2019 being FIR No.293 of 2019 filed by the husband be stayed, and the matter be referred to a Special Investigation Team (SIT).

We have gone through the Special Leave Petition and the documents appended thereto. We find that FIRs have been filed by the petitioner-wife and respondent No.7- husband against each other.

The wife has filed FIR No.103/2018 on 16.8.2018 under Sections 323, 376, 377, 506 and 509 IPC with the Gurugram Police Station.

The husband has filed two FIRs against the petitioner wife and her mother. The first FIR filed was FIR No.232/2019 dated 22nd April, 2019 under Sections 120B, 420, 467, 468 and 471 IPC before the Gurugram Police Station.

The second FIR filed by the husband is FIR No.293/2019 against the wife under Section 120B, 420, 406, 474, 477A, 471, 467 and 468 IPC.

With a view to bring about an overall settlement between the parties, we considered it appropriate to refer all the disputes which were arisen between the parties to Mediation by a former Judge of the Supreme Court. The Counsels appearing for both parties accepted the suggestion. As a consequence, we appoint Mr. Justice D.K. Jain, former Judge of this Court to conduct mediation proceedings between the parties to arrive at an amicable settlement on all issues including the property and corporate disputes between the parties. Both parties will share equally the costs of the Mediation.

During the pendency of Mediation proceedings, it is ordered that all proceedings arising out of FIR No.103 of 2018 dated 16.8.2018, FIR No.232/2019 dated 22.4.2019 and FIR No.293/2019 dated 04.6.2019 shall remain stayed.

Post the matter after the report is received from Mr. Justice D. K. Jain.”

A perusal of the abovesaid order would show that the prayer primarily made in the SLP was with respect to the stay of investigation arising out of the FIR No.293 of 2019 which had been filed by respondent No.2-husband against the present petitioners and the Hon'ble Supreme Court was pleased to appoint Hon'ble Mr.Justice D.K. Jain, a former Judge of the Hon'ble Supreme Court, to conduct the mediation proceedings between the parties so as to arrive at an amicable settlement on all issues. It was ordered that the proceedings in the FIR between the parties, including the present FIR, were stayed.

It was brought to the notice of this Court by learned counsel for both the parties that unfortunately the mediation failed and thus, no amicable settlement was arrived upon. On 23.09.2021, when the said SLP came up for hearing before the Hon'ble Supreme Court, the following order was passed: -

“The counsel on instruction, wants to withdraw the present Special Leave Petition and also makes a request that he wants to withdraw the CWP No. 16040 of 2019 filed before the High Court of Punjab and Haryana. The Statement is taken on record. The Special Leave Petition in terms, as prayed, is dismissed since alternative remedy is available, at the command of the petitioner has been availed.”

After passing of the order by the Hon'ble Supreme Court in the above-said SLP, learned counsel for the petitioners has pressed the present petitions for grant of anticipatory bail and has raised arguments on merits.

Learned counsel for the petitioners has vehemently argued that the present FIR is a counter-blast to the FIR bearing No.103 dated 16.08.2018 under Sections 323, 377, 506 and 509 IPC registered by petitioner Richa Singh against respondent No.2. It has further been submitted that after the registration of FIR No.103 dated 16.08.2018, respondent No.2 was granted unconditional bail on 11.08.2018 and on 20.12.2018 petitioner Richa Singh had filed CRM-M-41332-2018 and a Co-ordinate Bench of this Court was pleased to modify the order and had imposed a condition that respondent No.2 shall not threat, criminally intimidate directly or indirectly any person acquainted with the facts of the case in any manner whatsoever (Annexure P-15). Charge-sheet in the said case was filed on 03.10.2018. On 04.12.2018, respondent No.2 had appeared before the trial Court and was furnished a copy of the challan and the matter was adjourned to 19.12.2018 and it is thereafter, the complaint dated 12.12.2018, on the basis of which the present FIR has been registered, was filed by respondent No.2. It has further been argued that although in the FIR, it has been stated that the resignation letter dated 12.04.2018 is forged and fabricated, but neither any handwriting expert report is there on record nor there is any other material to support the same. It is submitted that absolutely false averments and allegations have been

levelled in the FIR and the said aspect is clear from the fact that in the FIR it has been alleged that the email received by complainant, from Mohini Singhal (CA- Barwal Associates), seeking digital signature certificate (in short “DSC”) from the complainant to intimate the resignation submitted by the complainant to the Registrar of the Companies, was not responded to by the complainant. Reference has been made to email dated 24.04.2018 (page 59 of the paperbook) to state that the complainant had in fact, sent an email immediately after the receipt of the email from Mohini Singhal, to Mohini Singhal, responding and stating that the digital signature certificate issued was valid for a period of two years and had expired on 11.01.2018 and therefore, Mohini Singhal would have to apply for a new one. The email dated 25.04.2018 by Mohini Singhal to the complainant in response to the said email (at page 59 of the paperbook) has also been highlighted to show that it was stated by Mohini Singhal to the complainant that the said DSC was being attached with the email and the complainant was required to paste a photo and the same was to be cross-signed by the complainant. It is submitted that reading of the said email would falsify the stand taken by the complainant in the FIR. It is further argued that it is the present petitioner-Richa Singh and one Dr. Vishal Sehgal, who are the shareholders of the company and the complainant has no shareholding in the same. It is further argued that in the present FIR, vague and general allegations have been levelled and the allegation to the effect that petitioners Richa Singh and Indu Bala Jadon had promised the complainant a fee of

Rs.20 lakhs is a completely false allegation and there is no document to back the same. It is further argued that respondent No.2 has not even invested a single penny into the company and no business has been carried by the company M/s ASWIMED Pvt. Ltd. and thus, the question of paying any salary would not arise. It is argued that at any rate, the petitioners in both the cases, have repeatedly joined the investigation and the entire matter is based on documentary evidence and thus, the custodial interrogation of the petitioners is not required. It is further stated that Petitioner-Richa Singh is 46 years old and is a respectable citizen with two minor children, handicapped father, handicapped elder sister and a mother to take care of. Petitioner-Indu Bala Jadon is an old lady of 70 years of age and there are no specific allegations against her in the entire FIR and she has been implicated in the present FIR solely on account of the fact that Richa Singh had got an FIR registered against her husband-respondent No.2. It is further argued that in the present case, the allegation with respect to non-payment of salary/fee etc., by the company has been made without arraying the company as an accused party. It has been argued that it is settled law that petitioners cannot be held vicariously liable without the company being made a party and without there being any provision in IPC to make the petitioners vicariously liable for the alleged amount due from the company.

Learned State counsel, on instructions from DSP Naresh Kumar, has submitted that after the initial investigation, the proceedings in the present FIR along with connected FIRs had been

stayed, in pursuance of the order passed by the Hon'ble Supreme Court of India and after the order dated 22.11.2019 passed by the Hon'ble Supreme Court, the SIT has been formed. It is submitted that prior to the order of stay, petitioners in both the cases had joined the investigation and cooperated with the same. The fact that there is no handwriting expert report so as to compare the admitted signatures of respondent No.2 with the signature on the resignation dated 12.04.2018, has not been denied by the Learned State Counsel.

Learned counsel appearing on behalf of the complainant, on the other hand, opposed both the petitions for grant of anticipatory bail. It has been submitted that in the present case, respondent No.2 was allured into the company by the petitioners, on the assurance that he would be paid a fee of Rs.20 lacs and it is on the basis of the said assurance, respondent No.2 had agreed to become a director of the company. It has been further argued that respondent No.2 had great experience, education and goodwill and in order to attract potential investors, he was sought to be made a director. It is further submitted that on 05.12.2018, Respondent no. 2 was shocked to learn that there was a resignation letter dated 12.04.2018 on the record, which was not to his knowledge. It has been submitted that the said document has been forged by the petitioners and Respondent no.2 had never resigned from the Directorship of the Company, and the said Resignation Letter was prepared in order to avoid the payment of fee to respondent No.2. It has also been submitted that the fact that the document dated 12.04.2018, is a forged document, would be clear

from the fact that respondent No.2 was not in India on 12.04.2018 and for the said propose, reference has been made to the documents annexed along with the Reply dated 18.01.2022, which has been submitted in the Court today, with an advance copy to learned counsel for the petitioner and is taken on record. A specific reference has been made to Annexure R-3 (at page 25 of the reply) to state that respondent No.2 had booked tickets to Singapore on 02.04.2018 and had boarded the flight on 07.04.2018 and thereafter, had booked another ticket on 10.04.2018 and boarded the flight from Singapore to Delhi on 21.04.2018. Further, reference has also been made to one page of the passport (page 29 of the said reply).

Learned counsel for respondent No.2 has further argued that in the present cases, the custodial interrogation of the petitioners is required inasmuch as, the signatures of petitioners in both cases are yet to be taken so as to see whether it is the petitioners who had forged the resignation letter dated 12.04.2018.

Learned counsel for the petitioners in rebuttal has submitted that it is not in dispute that there is no handwriting expert report showing that the signatures on the resignation letter dated 12.04.2018, are not of respondent No.2. The signature of respondent No.2 had already been taken even as per the case of the prosecution. It is submitted that the signatures of the petitioner in the said circumstances would not be a relevant piece of evidence, and at any rate, even the said signatures have been taken before the trial Court. It is further argued by learned counsel for the petitioners that the letter

dated 12.04.2018 is signed by respondent No.2 and there is not a single averment in the entire FIR that he was abroad on 12.04.2018 and the arguments raised by learned counsel for respondent No.2/complainant are beyond even the allegations levelled in the FIR. It is further submitted that a document could be signed on a prior to the date mentioned in the document or even on a subsequent date. At any rate, it is submitted that the documents referred to by the respondent No.2/complainant do not even *prima facie* show that he was not in India on 12.04.2018 and even, the entire copy of the passport has not been annexed.

This Court has heard learned counsel for the parties and has perused the paper-book.

It is not in dispute that an FIR No.103 dated 16.08.2018 was registered by the present petitioner Richa Singh against respondent No.2 under Sections 377, 323, 506 and 509 IPC and in the said proceedings on 03.10.2018, charge-sheet was filed against respondent No.2 and on 04.12.2018, respondent No.2 had appeared in before the trial court and was furnished a copy of the report under Section 173 Cr.P.C. and it is thereafter, that a Complaint dated 12.12.2018 was filed by the Respondent no.2 on the basis of which, the present FIR has been registered on 22.4.2019. The arguments raised by learned counsel for the petitioners to the effect that the present FIR is a counter-blast to the above-said FIR cannot thus, be brushed aside. There is a specific allegation in the FIR to the effect that respondent No.2 had not responded to the email sent by Mohini

Singhal (CA), wherein the said CA had asked the complainant/respondent No.2 to share his digital signature certificate for the purpose of compliance, so as to intimate Registrar of Company about his resignation from the company. With respect to the same, Learned Counsel for the petitioner has relied upon two emails dated 24.04.2018 and 25.04.2018 (Page 59 of the paperbook). The relevant portion of the said emails are reproduced hereinbelow:-

“From: praveenjakate [\[mailto:praveenjakate@yahoo.com\]](mailto:praveenjakate@yahoo.com)

Sent: 24 April 2018 22:59

To: Mohini@barwal.in; ‘Richa Singh’

Subject: RE: Dsg

Dear Mohini,

This is what I am being told “The DSC is issued for a period of 2 years and has expired on 11th Jan 2018. Since this is expired, you will need to apply for a new one.”

Can you help apply?

Regards,

Praveen.”

“RE: Dsg

Mohini@barwal.in

Wed 4/25/2018 4:44 AM

To: ‘praveenjakate’ <praveenjakate@yahoo.com>;

Richa Singh’ <s_richa@hotmail.com>

1 attachments (733 KB)

DSC Subscription Form (Sify) – Class 2&3 New.pdf;

Yes Sir,

Please find attached DSC Form, You are requested to paste your Photo at the extreme bright at top and the photo so pasted

shall be cross signed by you and the applicant is also required to sign the Subscribers column at Section-3 Declaration part of the Form.

Also provide us with the Self-attested copy of PAN card and Adhar/Passport as the Residential proof.

Kindly provide all the documents i.e. the Signed DSC form, Self-attested copy of Pan card and Adhar/Passport in hard copy.”

A perusal of the above emails would show that the Respondent no.2/Complainant had responded to the email sent by Mohini Singhal and even Mohini Singhal had in response to the email dated 24.04.2018 of the Respondent no.2, sent an email dated 25.04.2018 (Page 59 of the Paperbook) and thus, the plea of the Respondent no.2 that he had not responded to the said email of Mohini Singhal, does not seem to be *prima facie* true. No explanation with respect to the said emails has been furnished by the learned counsel for respondent no.2/complainant at the time of arguments. It is not in dispute that there is no handwriting expert report, much less from a government laboratory, stating that the signatures present on the resignation letter dated 12.04.2018 are not of respondent No.2 and are forged and fabricated. It is not in dispute that the signatures of Respondent no.2 have been taken by the investigating agency and yet, without having got a handwriting expert report, the present criminal proceedings have been initiated against the present petitioners on the primary allegation of forgery. Even a perusal of the documents (Annexure R-3), which have been relied upon by learned counsel for respondent No.2, are not of unimpeachable character and do not even form a part of the investigation. Moreover, there is no allegation in the

FIR that the Respondent no.2 was not in India on 12.04.2018, i.e., the date of the resignation letter. Even the complete copy of the Passport has also not been placed on record and only one page of a document which purportedly looks to be a page from a passport, has been annexed. From the said page, it is not even clear as to whether the same is the passport of the Respondent No.2/Complainant. At any rate, the authenticity and the admissibility of the said documents are yet to be established. All the abovesaid issues would be a matter of investigation/trial and thus, this Court does not wish to give any final opinion on the same as any observation made by this Court would prejudice the trial/investigation.

As earlier noticed hereinabove, the present cases of anticipatory bail are arising out of a matrimonial dispute and have been pending since 2019 and the petitioners were granted interim protection in the year 2019 itself and they had also joined the investigation. The mediation proceedings were also initiated at the instance of both the parties and even a former Judge of the Hon'ble Supreme Court was appointed as a Mediator. A settlement, however, could not be arrived at. The entire dispute is based on documentary evidence and thus, the custodial interrogation of the petitioners would not be required. The petitioners have been on interim bail for the last two years and have never misused the said concession of interim anticipatory bail granted to them and petitioner-Richa Singh is a lady of 46 years of age and has two minor children, handicapped father,

handicapped elder sister and mother to take care of, whereas, petitioner-Indu Bala Jadon is an old lady of 70 years of age.

Keeping in view the above-said facts and circumstances, the present petitions for the grant of anticipatory bail to the petitioners are allowed and the interim order dated 08.05.2019 passed in CRM-M-20997-2019 and the interim order dated 09.05.2019 passed in CRM-21097-2019, are made absolute.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present cases which are only for the purpose of adjudicating the present bail applications.

January 19, 2022
naresh.k

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?	Yes
Whether reportable?	Yes