

**CRM-M-39178-2019;
CRM-M-12941-2017 and
CRM-M-40762-2019**

-1-

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

**CRM-M-39178-2019
Date of Decision: 18.04.2022**

(I)

Dr. Radhika

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CRM-M-12941-2017

(II)

Anindya Chander Sen

....Petitioner(s)

Versus

State of Punjab another

.....Respondent(s)

CRM-M-40762-2019

(III)

Dr. Gaurav Arora

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Tanu Bedi, Advocate,
for the petitioner in CRM-M-39178-2019 and
for respondent No.4 in CRM-M-40762-2019.

Mr. Gautam Dutt, Advocate,
for the petitioner in CRM-M-12941-2017.

Mr. Aayush Gupta, Advocate,
for the petitioner in CRM-M-40762-2019 and
for respondent No.2 in CRM-M-12941-2017 and
CRM-M-39178-2019.

Mr. Davinder Bir Singh, DAG, Punjab.

Mr. Rahul Bhargava, Advocate,
for respondent No.5 in CRM-M-40762-2019.

JASGURPREET SINGH PURI, J.

All the three petitions are taken up together for final disposal with the consent of the learned counsel for the parties since the dispute pertains to complaint/FIR lodged by the husband against his wife and another person. CRM-M-39178-2019 has been filed by the wife (Dr. Radhika) seeking quashing of the FIR No.21 dated 07.02.2015, under Sections 380, 420, 120-B IPC (Sections 419, 467, 468, 471 IPC added later on), registered at Police Station E Division, District Amritsar. CRM-M-12941-2017 has been filed by one Anindya Chander Sen who is also a co-accused in the same FIR i.e. FIR No.21 dated 07.02.2015. CRM-M-40762-2019 has been filed by the husband i.e. Dr. Gaurav Arora seeking a direction with regard to a subsequent complaint pertaining to a different property.

Since CRM-M-39178-2019 and CRM-M-12941-2017 have been filed seeking quashing of the same FIR i.e. FIR No. 21 dated 07.02.2015, the facts are being taken from the petition filed by Dr. Radhika in CRM-M-39178 of 2019. The relief claimed in the aforesaid two petitions

pertains to quashing of the aforesaid FIR and, therefore, it will be necessary to note the allegations levelled in the FIR.

As per the aforesaid FIR No. 21 dated 07.02.2015 (Annexure P-1) which was lodged by Dr. Gaurav Arora (respondent No.2) against the petitioner Dr. Radhika who is his wife under Sections 380, 420, 120-B IPC (Sections 419, 467, 468, 471 IPC added later on), it was alleged by the complainant-husband that he obtained MBBS Degree and is a reputed doctor and has earned a lot of reputation and respect in the city with his hard work. His marriage was solemnized with the petitioner Dr. Radhika at Amritsar on 19.02.1995 and out of the wedlock, two children were born and during the initial years the marriage life was running smoothly. However, about 3-4 years ago, big difference was seen in the activities of his wife and, therefore, he got alert regarding her behaviour. On enquiring the same, he came to know that his wife is having illicit relation with another person namely Anindya Chander Sen (Petitioner in CRM-M-12941-2017) and he got mentally upset and also filed a petition for divorce on 24.12.2014 which is pending consideration before the learned Additional District Judge, Amritsar. However, he received a telephone call from an unknown dealer asking him whether he wants to sell his plot measuring 3150 Sq. Yards situated at G.T. Road, Amritsar and also asked for the price of the same whereby he told him that he is not selling any plot. However, the said person told him that in the market ownership of the documents of his property are already there and on hearing this, he was totally shocked. Then he checked the abovesaid documents in the almirah and found that documents of the abovesaid plot and that of one other property i.e. 13 Katra

Sher Singh, Amritsar were missing. After this in order to verify loss of anything else on the house including valuable jewellery, he checked his almirahs and found that gold ornaments weighing around 500-600 grams, cash amount of Rs. 2,50,000/- were stolen. The aforesaid plot measuring 3150 Sq. Yards situated opposite Nishan Cycle Agency, G.T. Road, Amritsar was purchased in September, 2000 vide different sale deeds in the name of his family including his father, mother, brother, himself and also his wife Radhika. However his wife Radhika further sold her share in the year 2012 in favour of his sister-in-law (Bharjai) Simple and in this way, the aforesaid plot stood in the name of his father, mother, brother, himself and his sister-in-law. As per the allegations, the original sale deeds, jewellery and cash were stolen away by the petitioner Dr. Radhika and in a well planned conspiracy, she tried to sell the aforesaid property. It has been further alleged in the FIR that earlier also his wife-petitioner Dr. Radhika obtained a loan of Rs.10,00,000/- from ICICI Bank, Branch Mall Road, Amritsar in the year 2008 by appending his fake signatures and when he came to know about the same in the year 2009, he with a view to save reputation of his family did not take any legal action against her and rather repaid the abovesaid loan on his own. At that time, his wife had even felt sorry before him and had assured him that she will not repeat the same mistake again. However, her conduct became worse and she stole the original documents of his property worth crores of rupees alongwith gold jewellery, cash and while going away also took away their Nissan Car bearing registration No.PB-02-BP-8959 registered in the name of his father.

It has been further alleged in the FIR that for the aforesaid purpose of

illegally selling the property belonging to the husband and his family members, which is situated at G.T Road, his wife in connivance with Anindya Chander Sen (Petitioner in CRM-M-12941-2017) with whom she is having illicit relations by showing the documents to different dealers in the market and the aforesaid fraud has been committed at a large scale.

After the investigation of the case the challan was presented before the learned trial Court vide Annexure P-2 against both the petitioners namely, Dr. Radhika and Anindya Chander Sen. A detailed investigation was carried on with regard to the allegations made in the FIR and so far as the allegations pertaining to the alleged forgery committed by the petitioner Dr. Radhika for obtaining bank loan of Rs. 10,00,000/- is concerned, the opinion of Forensic Science Laboratory, Punjab, Phase-IV, SAS Nagar was also obtained vide Annexure P-7 which however opined that it was not possible to express any opinion regarding the common authorship and it required thorough scientific examination and definite opinion. Thereafter vide Annexure P-7/A another opinion was obtained from one Sukhpreet Kaur, Forensic Documents Expert, Amritsar who opined that the signatures on the loan documents were not written by respondent No.2 i.e. Gaurav Arora.

**The contentions of the learned counsel for the parties in
CRM-M-39178-2019 and CRM-12491-2017**

Ms. Tanu Bedi, learned counsel appearing on behalf of petitioner Dr. Radhika in CRM-M-39178-2019 submitted that the present FIR is liable to be quashed on various grounds. She submitted that it was a matrimonial dispute between the husband and wife and respondent No.2

had filed a petition for divorce against the petitioner on the ground of adultery and thereafter, he has lodged the present FIR against the petitioner in which the other co-accused namely Anindya Chander Sen was also nominated as an accused. She further submitted that the marriage between the parties took place on 19.02.1995 and out of the wedlock two children were born but it was due to the false allegations made by respondent No.2 against the petitioner pertaining to adultery and seeing that he could not succeed in the said ground in the divorce petition, he got lodged the present FIR with ulterior motive. She further submitted that the lodging of the FIR was an abuse of the process of the law and before lodging of the FIR no mediation process was initiated between the parties nor any preliminary enquiry was held. She further submitted that the evidence which was collected by the police was distorted and fabricated evidence and, therefore, the police should not have proceeded on the basis of the aforesaid unreliable evidence especially when the Forensic Science Laboratory was of the opinion that it was not possible to express any opinion with regard to forging of the signatures of respondent No.2 by the petitioner and the opinion of a private Forensic Expert could not be relied upon. She further submitted that even after the investigation when the report under Section 173 Cr.P.C was presented nothing was made out in the report and in fact the FIR was a result of a personal vendetta since the divorce petition speaks volumes about the same. She further submitted that the allegations are improbable and absurd and based upon *mala fide* on the part of respondent No.2. She further submitted that since respondent No.2 could not prove the allegations of adultery against the petitioner, the present FIR was lodged

against her which was a result of a mala fide intention on the part of respondent No.2. Learned counsel further relied upon ***Subhajit Banerjee Versus State Govt. of NCT of Delhi [2017 SCC Online 7094]*** and submitted that when the property is in the joint possession and the allegations pertaining to the theft of the documents pertaining to the property, it will not constitute an offence of theft and also submitted that when the criminal proceedings pertain to matrimonial dispute and the articles and other documents were in joint possession of husband and wife, then no offence of theft can be made out. She further referred to a judgment of Hon'ble Supreme Court in ***Vineet Kumar and others Versus State of U.P and another [2017 (13) SCC 369]*** and submitted that the power of the High Court under Section 482 of the Code of Criminal Procedure can be exercised for the advancement of justice and that whenever the solemn process of Court is sought to be abused by a person with some oblique motive, then the Court has to thwart the attempt at the very threshold and the prosecution should not be carried out further. She further submitted that it was also held by the Hon'ble Supreme Court in ***State of Haryana and others Versus Ch.Bhajan Lal and others [1991(1) RCR (Criminal) 383]*** and submitted that where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, then the FIR can be quashed while exercising jurisdiction under Section 482 of the Code of Criminal Procedure. Learned counsel also relied upon a judgment of the Hon'ble Supreme Court in ***S. Khushboo Versus Kanniammal and another [2010***

(5) *SCC 600*] and submitted that even when there are disputed questions of fact involved, the Court may examine the questions of fact as well when the use of the criminal law machinery was in the nature of an abuse of authority or when it could result in injustice. Learned counsel further relied upon a judgment of the Hon'ble Supreme Court in *Rajiv Thapar and others Versus Madan Lal Kapoor [2013(3) SCC 330]* and submitted that the Court even look into the facts of the defence of the accused and the other admitted facts and in case, the judicial conscience of the Court is satisfied, then it can exercise its power under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings in order to prevent the abuse of process of the Court and to secure the ends of justice.

Mr. Gautam Dutt, learned counsel for the petitioner in CRM-M-12941-2017 who is representing the other co-accused namely Anindya Chander Sen has also challenged FIR No. 21 dated 07.02.2015. This petition has been filed not only challenging the aforesaid FIR but two more orders have also been impugned. The petitioner Anindya Chander Sen moved an application for discharge before the learned trial Court and vide order dated 10.08.2016 (Annexure P-7) the learned Magistrate dismissed the application seeking discharge. Thereafter, the petitioner filed a revision petition before the learned Additional Sessions Judge, Amritsar which was also dismissed on 06.03.2017 vide Annexure P-10.

Mr. Gautam Dutt, learned counsel submitted that so far as the petitioner Anindya Chander Sen is concerned, he has been falsely implicated in the present FIR and he has no role to play in the present dispute between the husband and wife and submitted that his application for discharge was

erroneously dismissed by the learned trial Court as well as by the learned Revisional Court. He submitted that the present FIR was vague and no offence was made out against the petitioner Anindya Chander Sen and he had no reason to interfere in the married life of the complainant and his wife. He therefore submitted that the FIR may be quashed qua the petitioner Anindya Chander Sen and the impugned orders whereby his discharge application was dismissed may also be quashed.

On the other hand, Mr. Aayush Gupta, learned counsel appearing on behalf of respondent No.2 i.e Dr. Gaurav Arora in both the petitions submitted that the present petitions deserve to be dismissed since no ground is made out in both the petitions. While making his submissions, the learned counsel referred to the reply filed by respondent No.2. He submitted that during the investigation elaborate evidence had been collected which shows *prima facie* that the allegations which were made against the accused persons were correct and, therefore, the challan has been presented before the learned trial Court. He further submitted that there was ample and sufficient evidence collected during investigation to prove that the petitioner Anindya Chander Sen was in illicit relationship with Dr. Radhika and they have stolen the documents pertaining to the title deeds of the property belonging to respondent No.2 and his family members and apart from the same, they conspired with each other and took a loan from ICICI Bank by forging the signatures of respondent No.2. Learned counsel referred to the loan application Annexure R-2/1 on which allegedly forged signatures of respondent No.2 have been appended on each page. He further referred to Annexure R-2/4 by stating that on the basis of the aforesaid loan application,

the ICICI Bank sanctioned loan of Rs.9,71,975/- on 08.01.2008. The said amount was thereafter got transferred in the joint account of both husband and wife in Punjab National Bank. Learned counsel further referred to another document dated 29.05.2015 which is a certificate issued by the Punjab National Bank to certify that the said amount was withdrawn by the petitioner Dr. Radhika through cheques on different dates ranging from 08.01.2008 to 21.01.2008 and the amount was withdrawn from the joint account of respondent No.2 and the petitioner Dr. Radhika. Learned counsel further submitted that both the petitioners were in active connivance with each other committed a theft regarding the original property documents regarding which the ownership vested in respondent No.2 and his family members and the petitioner Dr. Radhika did not have any ownership or possession of the property as she had earlier transferred her share to the sister-in-law of respondent No.2 and, therefore, she has no connection whatsoever with the property which is mentioned in the FIR. Thereafter, the documents were shown and given to various property dealers in the market with the intention to sell the property and respondent No.2 came to know with regard to the same only when he received a telephone call from one of the persons for the purpose of verification. He further submitted that the judgments referred to by the learned counsel for the petitioner that there can be no theft when there is a joint ownership or possession especially between husband and wife are not applicable in the present case because the petitioner was neither the owner nor in possession of the properties and, therefore, offence of theft is attracted. He further submitted that even the car (Nissan) which was stolen by the petitioner Dr. Radhika also belongs to the

father of respondent No.2 and same has also been recovered from her and, therefore, there is a *prima facie* case against the petitioner on the basis of which, the FIR was lodged and further proceedings have been carried out. He further submitted that so far as the role of the other petitioner namely Anindya Chander Sen is concerned, he was having illicit relationship with the petitioner Dr. Radhika for a long time and during investigation it was found that they had stayed together for more than 10 times and sufficient material has also been collected which has been reflected in the challan itself and the offences are being committed by them in connivance with each other. He further submitted that the parameters laid down by the Hon'ble Supreme Court in ***State of Haryana and others Versus Ch.Bhajan Lal and others (Supra)*** are not satisfied in the present case as there is no ground made out for quashing of the FIR at the threshold. The truthfulness of the allegations can be seen only at the time of trial when evidence is produced by the parties and, therefore, has prayed for dismissal of both the petitions.

Learned Deputy Advocate General, Punjab appearing on behalf of the State of Punjab has submitted that during the investigation sufficient material was found for presentation of challan. He referred to the affidavit filed by the State of Punjab to contend that during investigation it was revealed that the petitioner Dr. Radhika and the co-accused Anindya Chander Sen used to stay together in various hotels at Ludhiana, Jaipur and Delhi as spouse in 2013 and 2014 and relevant documentary and oral evidence in this regard was brought on record by the Investigating Officer in the instant FIR which has been duly mentioned in the challan presented against the petitioner Dr. Radhika and the co-accused Anindya Chander Sen

in the learned Court and it was revealed on the basis thereof that the petitioner Dr. Radhika and the co-accused Anindya Chander Sen in connivance with each other hatched a conspiracy in order to gain illegal benefit and cause undue loss to the complainant and that the petitioner had stolen gold ornaments and documents of the property from the house of the complainant/respondent No.2 and also hatched a conspiracy to sell the property of the complainant. While further referring to the affidavit, he submitted that when the petitioner Anindya Chander Sen was arrested, then during the course of investigation on the basis of evidence it was brought on record that he used to send SMS messages from his mobile phone to the petitioner Dr. Radhika on her mobile number while impersonating as Dr. Meera Sayal and, therefore, offence under Section 419 IPC was added in the present FIR on 30.04.2015. It was also revealed that the petitioner Dr. Radhika had purchased/booked Air Flight tickets for the co-accused Anindya Chander Sen for 18.12.2014 from Delhi to Amritsar and 20.12.2014 and 21.12.2014 and payment of Rs. 10,503/- thereof was also made by the petitioner and the petitioner had got booked room on the said dates in M.K Hotel, Amritsar for the co-accused Anindya Chander Sen. He further submitted that the petitioner Anindya Chander Sen also filed an application for discharge before the learned trial Court which was dismissed and thereafter his revision petition was also dismissed by the learned Additional Sessions Judge, Amritsar. He further submitted that sufficient incriminating evidence was available on record in the present case against both the petitioners and the same has also been appreciated by the learned trial Court while dismissing the application for discharge filed by one of the

petitioner namely Anindya Chander Sen and also while dismissing the revision petition . He further submitted that the both the petitions have been filed on flimsy grounds besides raising disputed questions of fact which are required to be proved before the learned trial Court by way of leading evidence and, therefore, prayed for the dismissal of the both the petitions.

I have heard the learned counsel for the parties.

Both the petitions have been filed seeking quashing of the FIR No.21 dated 07.02.2015, under Sections 380, 420, 120-B IPC (Sections 419, 467, 468, 471 IPC added later on), registered at Police Station E Division, District Amritsar.

In the petition filed by petitioner Anindya Chander Sen, apart from seeking the quashing of the FIR, prayer has also been made for quashing of the two orders whereby the prayer of the petitioner for discharge was dismissed by the learned trial Court and the revision petition filed by him was also dismissed by the learned Additional Sessions Judge, Amritsar. The allegations made by the complainant/respondent No.2 in the present case are threefold.

- (i) The allegations pertaining to forging of signatures in the loan documents by the petitioner Dr. Radhika and obtaining the loan and appropriating an amount of approximately Rs. 10,00,000/- in her favour.
- (ii) Theft of ownership/property documents pertaining to plot measuring 3150 Sq. Yards situated at G.T Road, Amritsar and trying to sell the same and theft of some gold and cash.
- (iii) Theft of car belonging to the father of the complainant.

Learned counsel for the petitioner Dr. Radhika had submitted that the lodging of the present FIR was only an abuse of the process of law since there was a matrimonial dispute between the parties and, therefore, the present FIR was only a result of a *mala fide* intention on the part of the complainant. She had further argued that earlier the complainant had filed a divorce petition against petitioner Dr. Radhika based upon ground of adultery and it was only because of this reason that the present FIR was lodged not only against the petitioner Dr. Radhika but also against the other co-accused namely Anindya Chander Sen. She also argued that the FIR was not only based upon improbable and absurd evidence but also it was a result of personal vendetta and, therefore, had submitted that the present FIR is liable to be quashed.

Learned counsel for the petitioner Anindya Chander Sen had submitted that he had no role to play in the present dispute between the husband and wife and, therefore, qua him the present FIR is liable to be quashed. Both the learned counsels also relied upon various judgments to contend that when the property is in the joint ownership/possession of the parties and when both the parties are husband and wife, then the offence of theft cannot be made out. Learned counsels had also referred to various judgments to contend that in order to secure the ends of justice and to prevent the abuse of the process of law, the High Court may in exercise of its extra ordinary power under Section 482 of the Code of Criminal Procedure quash the FIR and the subsequent proceedings.

So far as the law pertaining to the quashing of the FIR and its subsequent proceedings under Section 482 of the Code of Criminal

Procedure is concerned, the same is well settled. It is a settled law that when the Court is satisfied that the continuation of the further proceedings will amount to an abuse of the process of law, the High Court can always quash the FIR in order to secure the ends of justice. However, each case depends upon the facts and circumstances of that case and there is no straight jacket formula for the same. Each and every case has its own facts and circumstances and set of allegations against the accused persons. Various guidelines have been laid down in this regard by the Hon'ble Supreme Court *State of Haryana and others Versus Ch.Bhajan Lal and others (Supra)* which are reproduced as under:-

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- 1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

2. *Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
3. *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
4. *Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
5. *Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
7. *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

108. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice."

In the present case, the first allegation against the petitioner was that the property documents regarding the property belonging to the complainant/respondent No.2 and his family members were stolen by the petitioner Dr. Radhika in conspiracy with the other petitioner namely Anindya Chander Sen and the same were being circulated in the market for the purpose of selling of the property. As per the allegations, the petitioner Dr. Radhika was not the owner of the property as she had sold her share long back ago to her sister-in-law. Therefore, it cannot be said that the petitioner Dr. Radhika was the joint owner of the property. The judgment in ***Subhajit Banerjee Versus State Govt. of NCT of Delhi (Supra)*** relied upon by the learned counsel for the petitioner that an offence of theft cannot be made out when the property was joint would therefore will not be applicable in the present case. In that case the property was in the joint ownership and possession, whereas in the present case the petitioner Dr. Radhika was not the owner of the property and the ownership vested in respondent No.2 and his family members. The other allegation was pertaining to the loan which was allegedly taken by the petitioner Radhika on the basis of the forged signatures of respondent No.2. Learned counsel for respondent No.2 had referred to various documents pertaining to the

loan and withdrawal of money by the petitioner Radhika herself from the joint account of petitioner Radhika and respondent No.2 immediately after the sanction of loan. There are two reports by the Forensic Experts. The first one is by the Forensic Science Laboratory which report is inconclusive and second report is by the private expert according to which the signatures did not match. Therefore, all these aspects are required to be seen only at the time of trial and no presumption can be drawn at this stage by this Court while exercising power under Section 482 of the Code of Criminal Procedure. The third allegation pertains to the theft of car. The car has since been recovered. Another allegation pertains to the theft of gold and cash. The argument raised by the learned counsel for the petitioner that the jewellery and cash would be construed as a joint ownership and possession of husband and wife seems to be plausible but this Court is of the view that the FIR itself cannot be quashed only on the basis of the present ground when the other allegations are required to be tested at the time of trial by adducing evidence. It is true that an FIR can be quashed on the basis of *mala fide* and also even if there are disputed questions of fact but each and every case has to be seen on the basis of its own facts and circumstances. In the present case, the allegations are such that it cannot be said that the FIR can be quashed on the basis of *male fide* and also even if there are disputed questions of fact the nature of disputed question is such that it cannot be determined by invoking power under Section 482 Cr.P.C. In the present case the allegations are such that it cannot be said that the FIR can be quashed on the face of it even if by taking the allegations to be true. The present case

does not fall in the parameters laid down by the Hon'ble Supreme Court in *State of Haryana and others Versus Ch.Bhajan Lal and others (Supra)*.

Therefore, finding no merit in these two petitions, the same are hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petitions only.

**CRM-M-40762-2019
(Dr. Gaurav Arora Versus State of Punjab and others)**

This petition has been filed by husband-Dr. Gaurav Arora in which his wife Dr. Radhika is also impleaded as respondent No.4. The prayer made in the present petition was seeking fair and impartial investigation in a complaint filed by the petitioner vide Annexure P-1 pertaining to an incident dated 09.09.2019. It was alleged in the complaint that his wife namely Dr. Radhika alongwith some other persons had entered into the building with lathis and other weapons with intention to cause physical harm and injury.

Reply was filed by the State of Punjab by way of affidavit. The subject matter of the property which has been referred in the complaint is a different property and is situated at building No. 254, Race Course Road, Amritsar. This property is different from the property which has been mentioned in the FIR and the wife namely Dr. Radhika was claiming to have a share of 30% in the property and a hospital is being run in this building. In the reply which was filed by the Assistant Commissioner of Police, North, Amritsar City, it was stated that the complaints of the parties

were thoroughly enquired into and it was found that nothing incriminating was revealed at the spot as alleged by the petitioner. DDRs were also recorded by the local police but it was found that no cognizable offence was made out and, therefore, applications given by both the parties were recommended to be consigned to record. However, preventive action under Section 107/150 Cr.P.C has been taken against the petitioner and respondent No.4 vide DDR No.47 dated 30.09.2019 by SHO, Police Station Majitha Road, Amritsar since there was an apprehension of breach of peace from both of them.

In view of the aforesaid position, the petition is devoid of any merit and, therefore, the same is hereby dismissed.

18.04.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No