

CRM-M-48947-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

142/246

CRM-33692-2023 IN/AND

CRM-12122-2023 AND

CRM-M-48947-2019 (O&M)

Date of decision: 03.10.2023

Anju and others

....Petitioners

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGAPresent: Mr. Tushar Wadhwa, Advocate for
Mr. Sanjiv Gupta, Advocate for the petitioners.

Mr. Karan Garg AAG Haryana.

Mr. Rajesh Bansal, Advocate for respondent No.2.

ARUN MONGA, J. (Oral)**CRM-33692-2023**

This is an application filed by respondent No.2 for placing on record
reply to CRM-12122-2023 and CRM-12126-2023.

Allowed as prayed for, subject to all just exceptions.

CRM-12126-2023

This is an application under Section 482 Cr.P.C. seeking amendment
of petition so as to challenge two orders, both dated 14.09.2022 (Annexures P10
and P-11) whereby petitioners were charge-sheeted by learned Court below. Since
vide separate order the FIR itself has been quashed, the application is rendered
infructuous. Disposed of accordingly.

MAIN CASE (O&M)

Petitioners seek quashing of FIR No.331 dated 12.07.2018
(Annexure P-1), registered under Sections 500, 501 of IPC and Section 67 of IT
Act, at Police Station Baldev Nagar, District Ambala and all subsequent

proceedings arising therefrom including report dated 20.12.2018 (Annexure P-8) submitted under Section 173 Cr.P.C.

2. Per the First Information Report (FIR), the complainant, Kanta Rani, stated that the marriage of petitioner No.1, namely, Anju, was solemnized with her son, namely, Heera Kapoor, and after their marriage, they were living separately from her. However, in the year 2018, her son and daughter-in-law allegedly assaulted her, which led to her lodging a complaint. Later on, a matrimonial dispute arose between the son of the complainant and petitioner No.1, after which petitioner No.1 left her matrimonial house and went to her parental house. It was further alleged that thereafter, petitioner No.1, in connivance with her aunt (Chachi), namely, Rajni Chopra (petitioner No.3), created fake Facebook IDs and uploaded objectionable material and content regarding the complainant and her two daughters. An FIR was lodged under Sections 500, 501 IPC, and Section 67 of the IT Act against petitioner No.1, Anju, and petitioner No.3, Rajni Chopra.

2.1. During the course of the investigation, petitioner No.2, Chetna Chopra (daughter of petitioner No.3), and petitioner No.4, Ajay Kumar (brother of petitioner No.1), were added by the police in the challan/final report under Section 173 Cr.P.C.

3. Learned counsel for the petitioners contends that the complaint, though filed in the name of Kanta Rani, is actually at the instance of Vishal alias Heera Kapoor, husband of petitioner No.1, who is her son, and arises out of the matrimonial discord between their marriage. He points out that the mother-in-law of petitioner No.1 (the complainant) is a 70-year-old widow and is not well-versed enough to understand what Facebook is. She is being simply used by her son to settle personal scores with petitioner No.1 purely for extraneous motives, as an act of revenge/counterblast for the proceedings initiated by petitioner No.1 under

Section 323, 406, 498-A, read with Section 34 IPC, which led to the registration of FIR No.438 at Police Station Quilla, District Panipat.

3.1 Learned counsel for the petitioners further submits that false and frivolous allegations have been leveled against the petitioners. Further, he urges that from the evidence on record, no obscene material has either been published or transmitted electronically by the petitioners, which would show that the essential elements of the relevant Section of the IT Act are not made out. He further submits that, in fact, the sister-in-law of petitioner No.1, Asha Rani, had created a fake Facebook account in the name of Riya Sharma and allegedly posted obscene pictures of petitioner No.1, accusing her of beating the complainant. He further submits that Asha Rani has herself stated in her statement recorded under Section 161 Cr.P.C. that she created a fake Facebook account in the name of Riya Sharma in the year 2015 from her own mobile number and used this account to upload defamatory messages against petitioner No.1 and sent them to her relatives.

3.2 Learned counsel further urges that the petitioners were also granted the concession of anticipatory bail by the Court below, as per the order contained at Annexures P-9 (colly).

4. Per contra, the learned counsel for respondent No.2 submits that there are serious allegations against the petitioners on the grounds that they had created a fake Facebook ID account and posted objectionable content regarding the complainant and her two daughters.

5. I have heard the learned counsel for the parties and reviewed the record.

6. From the perusal of the court file, it transpires that two cross complaints were filed: one by respondent No.2 against petitioner No.1 regarding beating her and snatching her gold earrings, which resulted in the registration of the instant FIR. Likewise, another complaint was filed by petitioner No.1 alleging

that her husband, namely, Heera Kapoor, and respondent No.2 used to beat her mercilessly and wanted to kill her, which resulted in another FIR being registered.

7. Concededly, the petitioners have already been granted the concession of ad-interim anticipatory bail by the Court below, as per the order at Annexure P-9 (colly). Pursuant thereto, the petitioners have already joined the investigation, and respective recoveries have also been made from them.

8. By an order dated 07.08.2023, the parties were directed to appear before the Mediation and Conciliation Centre of this Court, as both parties were in agreement to explore the possibility of an amicable settlement. A report dated 29.09.2023 from the learned Mediator stated that effective mediation could not be held in the absence of necessary parties, and mediation was not possible. The file was accordingly sent back to this Court for further adjudication.

9. Be that as it may, it transpires that petitioner No.1 is the daughter-in-law of the complainant, and a matrimonial dispute is ongoing between petitioner No.1 and her husband. Allegedly, the petitioners prepared fake IDs on Facebook in the name of Rajni Chopra, Riya Sharma, and Chetan Chopra and posted objectionable material and pictures of the complainant and her two daughters. However, the alleged posts made by the petitioners do not contain material that is objectionable in nature. Only pictures of the complainant and her two daughters with some comments/text messages are posted through fake IDs. Moreover, the petitioners are not involved in any other criminal case.

10. A perusal of the Facebook post would show that Section 67 of the IT Act is not applicable in this case, as no obscene material has been published or transmitted electronically.

11. In any case, per Section 78 of the IT Act, a police officer not below the rank of Inspector should investigate any offense under the IT Act. However, in the present case, ASI Sunil Kumar conducted the investigation, which is not even

permissible. Even the elements of Section 500 and 501 of IPC are not made out from the material on record.

12. Therefore, it would be an appropriate case for the exercise of power under Section 482 Cr.P.C. to put an end to the criminal proceedings initiated in the light of the impugned FIR.

13. For the reasons recorded above, the present petition is allowed. FIR No.331 dated 12.07.2018 (Annexure P-1) registered under Sections 500, 501 of IPC and Section 67 of IT Act, at Police Station Baldev Nagar, District Ambala, along with consequential proceedings arising therefrom qua the petitioners, including report dated 20.12.2018 (Annexure P-8) under Section 173 Cr.P.C., stand quashed.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 03, 2023
Ajay

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