

247 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-60317-2022 (O&M)

Date of Decision: 09.01.2024

MANISHA BHATIA

...Petitioner

V/S

U.T. CHANDIGARH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vivek Saini, Advocate for the petitioner.

Mr. Yashwant Singh Rathore, Addl. PP UT Chandigarh
assisted by Ms. Sudha Singh, Advocate and
Mr. Yuvraj Singh Rathore, Advocate.

HARPREET SINGH BRAR J. (Oral)

1. Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of the FIR No. 117 dated 15.07.2022 registered under Sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code and Section 24 of Emigration Act, 1983 at Police Station South Sector 34, Chandigarh and all consequential proceedings arising therefrom.
2. Learned counsel for the petitioner *inter alia* contends that perusal of the FIR clearly indicates that the present petition has been lodged with the oblique motive to wreak vengeance from the petitioner as earlier, one Pawan Kumar, who is uncle of the present complainant-Anil Kumar, has lodged an FIR against the petitioner and her husband and in that FIR, complainant-Pawan Kumar has not made any reference with regard to any cheating having been committed in this case with Anil Kumar. Even the complainant in this case i.e. Anil Kumar, has not made any reference that Pawan Kumar, his uncle has been cheated by the petitioner and her husband. Learned counsel further submits that he has obtained the

information under the Right to Information Act with regard to numerous complaints filed by Pawan Kumar against the petitioner before the Chandigarh Police. Apart from deposit of Rs. 1,00,000/- in the account of the petitioner, there is no other evidence available on record to invoke the complicity of the petitioner in the alleged offence and the present FIR is nothing, but an abuse of the process of law. Learned counsel further contends that petitioner is a house hold lady and he has no concern with the business and professional life of her husband.

3. Per contra, learned State counsel submits that arguments advanced by learned counsel for the petitioner is required to be rejected as during investigation, statement of Pawan Kumar under Section 161 of Cr.P.C. has been recorded and this Court cannot determine the disputed questions of facts and appreciate the probable defence set up by the petitioner in the present case and the petitioner is not a house hold lady as it has come on record during investigation that she used to participate in the day-to-day functioning of the travel agency and she used to work as a Counsellor and her role in the alleged offences has clearly been established.

4. Having heard the learned counsel for the parties and after perusing the record, this Court cannot adjudicate the disputed questions of facts and appreciate the probable defence of the petitioner in view of the law laid down by Hon'ble Supreme Court in **HMT Watches Ltd. Vs. M.A. Abida (2015) 11 SCC 776**, and the same is hereby dismissed. However, the petitioner being a lady, her personal appearance before the trial Court shall remain exempted during the course of trial subject to the following conditions:

- i) petitioner shall be represented through his counsel;
- ii) shall not delay/stall the trial proceedings;

- iii) shall not dispute their identity as accused;
- iv) shall have no objection if the prosecution evidence is recorded in their absence but in the presence of his counsel;
- v) shall appear before the trial Court as and when required; and
- vi) any other condition, which the trial Court may impose.

09.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No