

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(CrI) No.52/2023
CrIM No.3187/2023

Anshul Garg & Ors.

....Petitioner(s)/Appellant(s)

Through :- Mr. Sakal Bhushan and
Mr. Rahul Sharma, Advocates.
Mr. Bhavesh Bhushan, Advocate.

V/s

State of Punjab & Ors.

....Respondent(s)

Through :-

CORAM: HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

ORDER

24.05.2023

1. The petitioners, through the medium of this writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, seek issuance of appropriate direction, order or writ quashing FIR No.0039 of 2023 dated 03.05.2023 registered on a complaint filed by respondent no.4 at Police Station (Women), Patiala Punjab, for the commission of offences punishable U/Ss 406, 498-A, 313 and 120-B of the IPC.

2. The impugned FIR has been challenged on the grounds that respondent no.4 who happens to be wife of petitioner no.1 due to her temperament being daughter of a high profile person of Punjab who has been given cabinet rank as Vice Chairman, Economic Policy and Planning Board, Punjab and being a big shopping freak interested in foreign trips/ shopping and requiring ample time to attend lavish parties and family functions since the very beginning of the marriage would usually interfere with the professional life of the petitioner no.1; and also that the respondent no.4 had been suffering from infertility due to Poly Cystic Ovarian Disease (PCOD) with difficulty in conceiving and retaining the pregnancy, as such, she had developed marital discord with the petitioner no.1. It

was further alleged that due to persistent efforts and mediations by the friends between the couple, the respondent no.4 as wife did not mend her ways and also created problems not only for her husband i.e. petitioner no.1 but also for family, relatives and friends of petitioner no.1. It was further stated that the petitioner no.1 had filed a petition in the month of December 2022 for judicial separation before Family Court at Jammu and as a counter blast to the petition for judicial separation filed against the respondent no.4 by petitioner no.1, the respondent no.4 lodged the impugned FIR with Women Police Station, Patiala Punjab, raising false allegations of subjecting her to cruelty, physical as well as mental, causing miscarriage to her having been assaulted by the petitioner no.1 and also raising demands for dowry and she had named besides petitioner no.1, his parents petitioners no. 2 and 3 who are senior citizens and also sister-in-laws and other relatives and friends of petitioner no.1.

3. Learned counsel for the petitioners submits that most of the allegations leveled against the petitioners herein relate to the incidents in J&K, at Jammu, Katra, Doda, Kupwara, Anantnag where the petitioner no.1 had remained posted on various positions. He has further submitted that the FIR has been lodged on those incidents which have allegedly been committed before 04.02.2022 when at Chandigarh during a mediation in presence of a senior officer, Secretary to the Govt. of J&K, the father of the respondent no.4 and father of the petitioner no.1 had by way of an agreement stated that the wedding ceremony at Chandigarh organized by the parents of the couple was out of their free will and happiness without any demands by any side and purely on voluntary basis, as such, there was neither any demand nor liability from either side; and that the little misunderstandings of the past will be sorted out by non interference of both sides

parents in the lives of the couple and that respondent no.4's parents will not interfere in petitioner no.1's professional life/service matter in any way.

4. Learned counsel for the petitioners has drawn the attention of this court towards the prescriptions of Dr. Mangla Dogra who had been consulted by the respondent no.4 on 09.05.2021 and Dr. Preeti Jindal on 27.03.2020 as a case of infertility due to PCOD and submits that the respondent no.4, due to misfortune of the couple, could not conceive or retain the pregnancy due to her medical condition and alleged that she has used this as a ploy to implicate her husband and his family in the false case of causing miscarriage lodged by her through the impugned FIR at Women Police Station, Patiala.

5. The petitioners seek quashment of the FIR registered at Police Station in Punjab outside the territorial jurisdiction of this court. Hon'ble the Apex Court in a case titled **Navinchandra N. Majithia v. State of Maharashtra & Ors.** reported as **(2000) 7 SCC 640**, observed on this subject in para-43 which is extracted hereinbelow for ready reference:

“43. We make it clear that the mere fact that FIR was registered in a particular State is not the sole criterion to decide that no cause of action has arisen even partly within the territorial limits of jurisdiction of another State. Nor are we to be understood that any person can create a fake cause of action or even concoct one by simply jutting into the territorial limits of another State or by making a sojourn or even a permanent residence therein. The place of residence of the person moving a High Court is not the criterion to determine the contours of the cause of action in that particular writ petition. The High Court before which the writ petition is filed must ascertain whether any part of the cause of action has arisen within the territorial limits of its jurisdiction. It depends upon the facts in each case.”

6. Since most of the allegations leveled against the petitioners relate to the incidents in J&K including subjecting the complainant respondent no.4 to cruelty and causing her miscarriage in the State of J&K, therefore, this court is having jurisdiction to entertain this petition as 'cause of action' though not wholly but major part of that has arisen, within the territorial limits of this court. Moreover, the petitioners who are accused in the case are also residing within the territorial jurisdiction of this court.

7. Heard.

8. Admit.

9. Issue post-admission notice to the respondents to file counter affidavits within four weeks. Requisites for their service be filed within one week.

10. List on **19.07.2023**.

11. Meanwhile, subject to objections from the other side and till next date before the Bench, the investigation into the impugned FIR qua the petitioners, is ordered to be stayed.

Jammu:
24.05.2023.
Raj Kumar

(MA CHOWDHARY)
JUDGE