

HIGH COURT OF JAMMU & KASHMIR
AT JAMMU

CRMC No.347/2016 & IA No.1/2016

Date of order: 29.03.2019

Neelam Kumari

Vs.

S.S.P Jammu & anr.

Coram:

Hon'ble Mr. Justice Sanjay Kumar Gupta, Judge

Appearing counsel:

For petitioner (s) : Mr. D.S.Chouhan, Advocate.

For respondent (s) : Mr. Amit Gupta, AAG.

i/	Whether to be reported in Press/Media	:	Yes/No
ii/	Whether to be reported in Digest/Journal	:	Yes/No

1. In the instant petition filed under Section 561-A Cr.P.C., the petitioner *inter alia* seeks quashment of FIR No.56/2015 under section 341/323/382 RPC dated 10.04.2015, registered at Police Station, Akhnoor, District Jammu.
2. Brief facts of the case are that the petitioner is married to Sanjay Kumar S/o Manga Ram R/o Dhoum, Juri. But due to strained relations with petitioner, she was compelled to reside with her parents at Rajwal, in separation; that a case for restitution of conjugal rights filed by the petitioner before the learned Munsiff, Akhnoor is pending adjudication. In order to frustrate the said case, the husband of the petitioner is exerting all sorts of pressure. He got a FIR No.56/2015 filed through his planted man totally on frivolous and false concocted basis and the petitioner is being harassed by the police. It is further submitted that the sole aim behind the FIR in question is to put the petitioner and her family (parents) into great humiliation and harassment. The police has failed to produce the

challan despite lapse of one year as such the sole aim is to summon the petitioner and her family to the police station after every one week or so simply to harass them.

3. Heard learned counsel for the parties and perused the case file.
4. During the course of arguments, learned counsel for the petitioner has reiterated all the grounds taken in the memo of this petition, whereas the learned counsel for the respondents has argued that the present petition is not maintainable.
5. The allegations in the impugned FIR are that an Urdu written application came to be filed by the complainant namely Ajeet Raj S/o Biasi Ram R/o Dhounak in Police Post Jourian wherein it is stated that on 09.04.2015 at about 8.30 pm, two persons came to his house and told him that their Inverter is out of order and asked him to come to their house and check it. Thereafter, the complainant went along with them and on the way, Janak Chand, Balbir Chand, Romesh Lal and Neelam Kumari W/o Sanjay Kumar R/o Rajwal, started beating him. Thereafter, complainant made hue and cry, due to which, accused persons fled away. They snatched cash of Rs.10,000/- and a mobile from the complainant. The complainant verbally also stated that on the way there was a Scooty on which a lady namely Neelam Kumari along with a man were present, who also beat the complainant.

On the basis of aforesaid application/complaint, impugned FIR for the offences under Sections 341, 323, 382 RPC came to be registered against the accused.

6. On 22.02.2019 I/O was present along with C/D file, who has stated at bar that from investigation only offences under section 341/323

RPC have been made out and no offence under 382 RPC has been established.

7. From bare perusal of grounds for quashment, it is apparent that no substantial case for quashment of FIR has been made out; FIR has already been culminated into finalization of criminal final report for commission of offences u/s 341/323 RPC. This court has stayed the presentation of challan on 16.07.2016. The petitioner has raised disputed question of defense, which cannot be appreciated in this petition. Therefore, at this stage, it is appropriate to direct the police to produce challan before competent court. Petitioner is at liberty to take all these pleas before court where challan is being presented. This petition is **disposed of** accordingly.

(Sanjay Kumar Gupta)
Judge

Jammu:
29.03.2019
Vijay