

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU
(Through Virtual Mode Srinagar)**

**CRM (M) No. 210/2021
CrlM No. 2063/2022
CrlM No. 571/2021**

Pronounced on : 31.03.2023

Neelam and others

..... Petitioner(s)

Through :- Mr. Ankush K. Kotwal, Advocate.

Vs

UT of J&K and another

.....Respondent(s)

Through :- Mr. Pawan Dev Singh, Dy.A.G for R-1.
Mr. Vishal Kapoor, Advocate for R-2.

Coram: HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

JUDGMENT

1. The petitioners herein seek quashment of FIR No. 0053/2021 registered with Police Station, Domana for offences under Section 405/403/504/506 IPC on the ground that the FIR is an abuse of process of law and causing harassment to the petitioners. It is submitted that the petitioner No.1 who is the wife of respondent No.2 has dispute with respondent under the Domestic Violence Act, 2005 pending before the Chief Judicial Magistrate, 1st Class 5-Moga (Punjab). The respondent No.2 got registered the FIR in question as a counter to the case pending between the parties before the court at Moga.
2. The petitioners have been granted anticipatory bail in the FIR by the court of learned 2nd Additional District Judge, Jammu on 18.03.2021. The petitioners are resident of Himachal Pradesh.
3. The objections to the petition have been filed by the respondent No.2 wherein the respondent has denied that the present case is abuse of

process of law or has been filed as a counter to the complaint filed by the petitioner No.1 against the respondent No.2 herein. Infact the proceedings initiated by the petitioner No.1 against the respondent No.2 is counter blast to the FIR and not vice-versa.

4. Apparently, the court finds no plausible reason to quash the proceedings on the grounds mentioned in the petition. The only reason given in the petition is that the FIR is counter blast to the proceedings filed by the petitioner No.1 under the Domestic Violence Act in the court at Moga. Though the petitioner has mentioned in the petition that the allegations mentioned in the FIR are false and frivolous with a motive to harass the petitioners the court is not required to go into the allegations as levelled in the petition. Mere filing of cases by the parties against each other does not mean by itself that the party filing the case later in point of time shall deem to have filed frivolous case against the party who had earlier approached the court with certain allegations against the other party.
5. The FIR cannot be quashed on the mere asking of the party unless the court is *prima facie* satisfied that the continuance of the proceedings in the FIR is sheer abuse of process of law.
6. As far as the contention of the petitioner that the FIR is counterblast to the case filed by the petitioner No.1 against the respondent No.2 the specific stand of the respondent is that infact the FIR was lodged by the respondent No.2 prior to filing of the proceedings by the petitioner under Domestic Violence Act, 2005 before the court at Moga.
7. The learned counsel for the respondent No.2 has invited the attention of the court to para 13 of the present petition wherein the petitioner has

stated that she filed the case against the respondent No.2 in the month of March 2021 whereas the complaint filed by the respondent No.2 and consequently registration of FIR is prior to the filing of the complaint under Domestic Violence Act. This fact is otherwise not denied by the petitioners.

8. The court is of the view that the contents of the petition itself contradict the stand of the petitioner that the FIR in question of which the quashment is sought has been filed after the filing of the complaint by the petitioner No.1 under the Domestic Violence Act. Irrespective of the fact that the FIR in question is filed before or after the filing of the complaint under Domestic Violence Act at the court at Moga, there is no ground to quash the FIR on the ground that in case same is allowed to remain on board, it shall be sheer abuse of process of law resulting into injustice to the petitioners.

9. The petition has no merit and is, accordingly, ***dismissed***.

(PUNEET GUPTA)
JUDGE

Jammu:

31.03.2023

Shammi

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No