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CRM-M-57632-2023**Radhika Rao and others****vs.****State of Punjab and another**

Present : Mr. Tejeshwar Singh, Advocate and
Ms. Dewangana Chhillar, Advocate for the petitioners.

Prayer is for quashing of FIR No.85 dated 30th of August, 2023 registered for the offences punishable under Section 295-A IPC at Police Station Division 4, Police Commissionerate, Jalandhar, Punjab.

Counsel for the petitioners *inter alia* submits that from bare perusal of the FIR it is evident that no offence under Section 295-A is made out and thus it will be a case which would fall within the parameters as laid down by Apex Court in the case of **State of Haryana and others vs. Ch. Bhajan Lal & others, 1992 AIR (Supreme Court) 604** wherein the Apex Court held as under :

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.



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- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”



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Issue notice of motion returnable for 11.03.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of respondent No.1 and prays for time to seek instructions.

In the meantime, further proceedings shall remain stayed.

November 16, 2023
Dpr

(Pankaj Jain)
Judge

