

CNR No: PHHC010197862023

2026:PHHC:107149



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision: 05.08.2026

(i) CRM-M-7940-2023

Tara Chand

.....Petitioner

Versus

Phula Rani

.....Respondent

(ii) CRM-M-7937-2023

Tara Chand

.....Petitioner

Versus

Shiv Kumar

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Tapish Gupta, Advocate, for the petitioner
(in both cases).

Mr. Tanya Kanwar, Advocate,
for the respondent in CRM-M-7940-2023.

None for the respondent in CRM-M-7937-2023.

VIKRAM AGGARWAL, J (Oral).

This order shall dispose of the afore-titled petitions
having identical facts and involving common question(s) of law.

2. In CRM-M-7940-2023, the petitioner seeks quashing
of complaint bearing No.NACT-1492-2021 dated 12.11.2021
titled as "Phula Rani Vs. Tara Chand" instituted under Section
138 of the Negotiable Instruments Act, 1881 (for short 'the N.I.
Act') and the summoning order dated 12.11.2021 passed by the

Court of Judicial Magistrate, Ist Class, Sirsa, along with all consequential proceedings arising therefrom.

2.1 It is the case of the petitioner that on 27.02.2013, he was elected as Chairman of the Board of Directors of one Teepu Sultan Urban Multistate Cooperative Credit Society Ltd. (for short 'the Society'). He, however, resigned on 18.12.2015 on account of certain family problems and health issues. It is further asserted that thereafter, one Tarsem Lal took over as Chairman of the said Society and was elected as such on 08.02.2017. It is further the case of the petitioner that he had neither issued the cheque in question nor had any concern with the respondent.

2.2 It is further averred that it is the case of the respondent herself that she had invested some amount in the aforesaid Society. However, the petitioner having already resigned from the said Society, the respondent cannot be said to have any legally enforceable debt against the petitioner.

2.3 In CRM-M-7937-2023, the petitioner seeks quashing of complaint bearing No.NACT-1034-2021 dated 12.11.2021 titled as "Shiv Kumar Vs. Tara Chand" instituted under Section 138 of the N.I. Act, and the summoning order dated 01.12.2021, raising identical pleas as raised in CRM-M-7940-2023.

3. I have heard learned counsel for the parties.

4. Learned counsel for the petitioner, while reiterating the factual position narrated above, submits that the petitioner had resigned from the post of Chairman of the Society in the year 2015, whereas it is the case of the complainant that the

cheque in question had been issued in the year 2021. It is further submitted that the complainant had concealed the factum of the petitioner already having resigned from the post of Chairman of the Society in the year 2015 and had wrongly pleaded that the petitioner had issued the cheque in question against a pre-existing legal liability.

4.1 It is further argued that the trial Court, while passing the summoning order(s) did not take into consideration the aforesaid aspects of the matter. Learned counsel submits that under the circumstances, the complaints and the summoning orders deserve to be quashed.

5. On the other hand, learned counsel for the respondent-complainant (in CRM-M-7940-2023), while controverting the aforesaid submissions, argues that the complainant had been duped of her hard earned money. It is further argued that the cheque in question had been issued by the petitioner against the maturity amount of the investment done in the aforesaid Society and once such cheque had been issued, the petitioner cannot be allowed to backtrack by pleading that he had resigned from the post of Chairman of the said Society.

6. I have considered the submissions made by learned counsel for the parties.

7. Before advertng to the merits of the case, it would be apposite to refer to the principles enunciated by the Apex Court as regards quashing of an FIR. The said principles would be

equally applicable to the quashing of a complaint under Section 138 of the N.I. Act.

8. In **State of Haryana and others Vs. Ch. Bhajan Lal and others, 1992 AIR Supreme Court 604**, the Apex Court while dealing with the issue of quashing of an FIR examined the statutory provisions and the law on the subject and 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.

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 F.I.R. 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 F.I.R. 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 F.I.R. 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 mala fide 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.”

8.1 **In the case of M/s Neeharika Infrastructure Pvt. Ltd. Vs State of Maharashtra and others, 2021 AIR SC 1918,** a three Judges Bench of the Apex Court was examining the legality of an order passed by the Bombay High court directing that no coercive measures would be adopted against the accused therein in respect of an FIR registered against the said accused.

8.2 The principal issue which, therefore, arose before the Apex Court was to whether a High Court would be justified in passing an interim order either staying further investigation in the FIR/complaint or in passing an interim order of no coercive steps to be taken against the accused. While examining this question, the Apex Court first examined the law on exercise of powers by High Courts under Section 482 Cr.P.C/Article 226 of the Constitution of India with regard to quashing of FIRs/Complaints.

8.3 The first decision to be noticed by the Apex Court was the judgment in the case of R.P. Kapur Vs. State of Punjab AIR 1960 Supreme Court 866. The Apex Court had held in that case that the inherent powers of the High Court could not be exercised in regard to matters specifically covered by the other provisions by the code and that the inherent jurisdiction of the High Court could be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. The Apex Court had held that ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. The Apex Court had then carved out certain exceptions to the said rule which were as under:-

“(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged. Absence of the requisite sanction may, for instance, furnish cases under this category.

(ii) Where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.”

8.4 The Apex Court then referred to the celebrated decision in the case of **Ch. Bhajan Lal** (supra).

8.6 Reference was also made to the judgment of the Apex Court in the case of State of **A.P. v. Golconda Linga Swamy (2004) 6 SCC 522**, which had considered the decisions of the Apex Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra) and had laid down principles as regards quashing of an FIR. Reference was further made to the judgment of the Apex Court in the case of **Zandu Pharmaceutical Works Ltd. v.**

Mohd. Sharaful Haque (2005) 1 SCC 122, wherein also the Apex Court had examined the powers of High Courts as regards quashing of FIRs.

8.5 The Apex Court then referred to a number of decisions on FIR's *viz.* the FIR not being an encyclopedia of facts etc and as to whether investigation could be scuttled at the initial stage. The Apex Court finally held that the interim order passed by the High Court in that case not to adopt any coercive steps against the accused was unsustainable.

8.6 While finally deciding the case, the Apex Court arrived at the following conclusions:-

“23. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 Cr.P.C, 1973 and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173 Cr.P.C., 1973 while dismissing /disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C., 1973 and/or under Article 226 of the Constitution of India, our final conclusions are as under:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;
- ii) Courts would not thwart any investigation into the cognizable offences;

- iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the rarest of rare cases (not to be confused with the formation in the context of death penalty).
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;
- vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;
- ix) The functions of the judiciary and the police are complementary, not overlapping;
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of

law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C., 1973 is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., 1973 only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C., 1973 and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from

passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C., 1973 before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., 1973 while dismissing/disposing of the quashing petition under Section 482 Cr.P.C., 1973 and/or under Article 226 of the Constitution of India.

xvii) Even in a case where the *High Court is prima facie of the opinion that* an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C., 1973 and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

xviii) Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and/or broad which can be misunderstood and/or misapplied."

9. If the present matter is tested on the touchstone of the aforesaid principles enunciated by the Apex Court, it becomes manifestly clear that the present case is not one where

the complaint can be held liable to be quashed. The rival contentions can be proved/disproved only once evidence is led.

10. That being so, no case is made out for quashing the complaints and the summoning orders and accordingly the present petitions are hereby dismissed being devoid of any merit.

Pending application(s) if any, shall also stand disposed of.

05.08.2026
ds

(VIKRAM AGGARWAL)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No