

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Crl. M.C. No. 1017/2011

+ Date of Decision: 16th November, 2012

CHARANJEET SINGH Petitioner
! Through: Mr. K.K. Manan, Mr. Mustafa Ali
& Mr. Nipun Bhardwaj, Advocates

Versus

\$ JAPJEET KAUR & ANR. Respondents
Through: Mr. Abhay Mani Tripathi, Advocate
for R-1 & R-2
Mr. Sunil Sharma, APP for the State
with Inspector Narender Khatri PS
Punjabi Bagh

CORAM:
*** HON'BLE MR. JUSTICE P.K.BHASIN**

ORDER

P.K.BHASIN, J:

The petitioner is the husband of the respondent no. 1 herein. Due to certain matrimonial disputes between them the respondent no. 1 got a criminal case registered against the petitioner. Apprehending

his arrest the petitioner-husband sought anticipatory bail from this Court and his bail application (being Bail Application no. 1078/2009) was allowed vide order dated 5th October, 2009 in view of some settlement having been arrived at between the husband and wife. That order dated 5th October, 2009 is reproduced below:-

“As an interim measure, the following has been settled today in the court between the parties:

(1) The petitioner shall deliver to the learned Senior Counsel for the Complainant a Pay Order of the entire amount payable to the Landlord of Punjabi Bagh premises towards rent up to 30.10.2009, with copy to I.O. The Pay Order shall be in the name of the Landlord and will be delivered by the complainant to him, as soon as it is received by her.

(2) All the arrears of electricity and water charges shall be paid directly by the petitioner to the concerned authorities within one week from today and the copy of the paid bills shall be given to the IO for record.

(3) The petitioner shall continue to pay rent for Punjabi Bagh premises to the landlord by way of Pay Order, in advance, by the 7th of each calendar month and copy of the rent receipt, if issued by the landlord, along with the copy of the Pay Order will be submitted to the Investigating Officer.

(4) The bills for water and electricity charges shall continue to be paid by the petitioner directly to the concerned authorities and copies of the paid bills shall continue to be submitted to the I.O. In view of the above voluntarily statement made by the petitioner through his counsel, the learned counsel for the complainant has no objection to grant of anticipatory bail to the petitioner. It is, therefore, directed that in the event of arrest of the petitioner, he will be released on bail on his furnishing personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the I.O. The petitioner shall not leave country without permission of the concerned court and shall not try to influence the investigation in any manner. If the petitioner fails to comply with the statement given today by him in the court, it shall be open to the complainant / Investigating Officer to seek cancellation of the anticipatory bail granted to the petitioner.

A copy of this order be given dasti, as prayed for.”

2. It appears that the respondent no. 1 then sought maintenance from the petitioner for herself and their minor child, respondent no. 2 herein, by filing a petition under Section 125 of the Code of Criminal Procedure and Section 12 of the Protection of Women from Domestic Violence Act. The learned Metropolitan Magistrate passed an order dated 10th May, 2010 for payment of interim maintenance @ ₹ 12,500/- per month each to the mother and child.

3. Feeling aggrieved by the said order of the learned Metropolitan Magistrate the petitioner filed a revision petition in Sessions Court and the learned Additional Sessions Judge vide impugned order dated 6th October, 2010 modified the Magistrate's order by reducing the maintenance amount from ₹ 12,500/- to ₹ 8,000/- each for the mother and child. While passing the impugned order the learned Additional Sessions Judge also made an observation that the said amount of maintenance would be apart from the amount of payment of rent @ ₹ 13,000/- per month which admittedly the petitioner had undertaken before this Court to pay at the time of disposal of his anticipatory bail application.

4. The petitioner-husband still felt dissatisfied and filed the present petition in this Court for setting aside of the order dated 6th October, 2010 of the learned Additional Sessions Judge.

5. When during the course of hearing of the matter it was put to the learned counsel for the petitioner-husband as to how the amount of ₹ 8,000/- per month fixed by the Sessions Court as maintenance payable to the petitioner's wife and their minor child could be said to be excessive at all his response was that the petitioner was not really aggrieved by the amount of maintenance fixed by the Sessions Court but he was aggrieved by the observation made in the impugned order by the learned Additional Sessions Judge that the said amount of maintenance of ₹ 8,000/- per month would be in addition to the payment of monthly rent of ₹ 13,000/- in respect of the house in Punjabi Bagh which he had taken on rent for living there along with his wife and the child and considering that observation of the Sessions Court the Executing Court was now insisting upon payment of the rental amount of ₹ 13,000/- per month also which could not be done since that amount had been agreed to be paid by the petitioner to the landlord during the pendency of his anticipatory bail application in which order it had been clearly stated that in case of default of payment of the rent the complainant-wife could seek cancellation of his anticipatory bail being granted to him in view of the settlement between the parties and further that even the trial Court had not ordered the petitioner to pay any rent to his wife.

6. Learned counsel for the respondent no. 1-wife did not dispute the fact that the amount of ₹ 13,000/- per month which the petitioner-husband had agreed to pay to his landlord was one of the conditions imposed by this Court while granting him the relief of anticipatory bail and that the learned Metropolitan Magistrate in the maintenance proceedings had not directed the petitioner to pay to her any amount on account of the rent for any premises where she could live independently with her child because of the serious disputes with her in-laws including her husband.

7. Since undisputedly the learned Metropolitan Magistrate had not directed the petitioner-husband to pay any amount to his wife on account of the rent the observation made by the learned Additional Sessions Judge in the impugned order while disposing of the petitioner's revision petition to the effect that the amount of maintenance of ₹ 8,000/- per month each payable to the mother and child was in addition to the amount of ₹ 13,000/- per month as rent cannot be considered to be a direction of the Sessions Court to the petitioner which could be got implemented through execution proceedings. All that the Sessions Court intended to convey in the impugned order was that the amount of maintenance being reduced from ₹ 12,500/- per month to ₹ 8,000/- per month would not be

having any effect on the liability of payment of rent of ₹ 13,000/- per month by the petitioner-husband to his landlord which he had undertaken to pay before this Court at the time of hearing of his anticipatory bail application.

8. As far as the amount of maintenance fixed @ ₹ 8,000/- per month for each one of the two respondents herein by the Sessions Court is concerned, the respondent no. 1-wife has not felt aggrieved and that is evident from the fact that she has not filed any petition in this Court challenging that order of the Sessions Court.

9. However, during the hearing of the present matter a grievance was made by the counsel for the respondent no. 1 that the petitioner was not paying rent to his landlord because of which the landlord had already initiated legal proceedings against the petitioner and respondent no. 1 for their eviction from the tenanted premises in Punjabi Bagh and the failure of the petitioner to pay rent to his landlord was intentional to see that respondent no. 1 is thrown on roads without a shelter over her head and to pressurize her to withdraw her legal battle against him and his family members. Learned counsel for the petitioner-husband, on the other hand, had submitted that respondent no. 1 was not living in the tenanted premises and was keeping it locked and therefore, the petitioner

could not be burdened with the liability of payment of monthly rent to the landlord since he himself was also not living there because of the continuous ill-behaviour of his wife towards him.

10. In my view, as far as the controversy between the parties regarding non-payment of rent of the tenanted premises in Punjabi Bagh is concerned, the same should be left to be resolved in appropriate proceedings which the respondent no. 1 can initiate against her husband in pursuance of the liberty granted to her by this Court while allowing the anticipatory bail application of the petitioner to seek cancellation of the bail in the event of petitioner committing breach of any of the conditions of the bail.

11. This petition is accordingly disposed of by maintaining the order of the learned Additional Sessions Judge fixing the interim maintenance @ ₹ 8,000/- per month each for the mother and daughter and also by clarifying that the amount of ₹ 13,000/- per month payable as rent by the petitioner-husband to his landlord will not be considered to be a direction of the learned Additional Sessions Judge to the petitioner as additional maintenance amount. The respondent no. 1-complainant, however, would be at liberty to take appropriate steps for the cancellation of the bail granted to the petitioner in case

she feels that he has violated the conditions of anticipatory bail granted to him by this Court.

P.K. BHASIN, J

NOVEMBER 16, 2012