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IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: June 5, 2013
Date of Decision: June 7, 2013*

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Bail App. No.1013/2013

VIRENDER PAL

..... Appellant

Through: Mr. H.S. Chaudhary, Advocate.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Manoj Ohri, APP for State.
SI Manmohan Ahuja, P.S. Model
Town.

CORAM:

MR. JUSTICE R.V. EASWAR

JUDGMENT

R.V. EASWAR, J.:

1. This is an application filed by one Virender Pal under Section 438 of the Criminal Procedure Code praying for anticipatory bail in case FIR No.158/12 registered in P.S. Model Town under Section 498A/406 of the Indian Penal Code.

2. According to the FIR, the applicant married Geeta Rajeshwari, the complainant on 12.03.2011. The father of the complainant had spent a huge amount of money in the marriage and in giving dowry articles to the applicant. After the marriage also, the in-laws of the complainant were pressurizing the father of the complainant to give a sum of ₹2 lacs and a car. When the complainant brought up this issue with the accused/applicant, there was no support from him; on the contrary he

abused the parents of the complainant. There was also ill-treatment of the complainant and one such instance given in the FIR is the abuse which the complainant had to face from her husband, the applicant herein, when she allegedly did not cover her face in the presence of the elder brother of the applicant. There was also physical abuse and even an attempt to burn the complainant by the husband as well as her in-laws was made. The complainant was hospitalized on account of the physical abuse. In the FIR, the complainant has further stated that after discharge she was sent to the parental home by the police and that all her costly clothes and jewellery remained in the house of her husband.

3. The charge made against the accused/applicant is under Section 498A/406 IPC.

4. The applicant moved a bail application before the Sessions Judge, Rohini Courts. It was pleaded by the applicant that a compromise had been arrived at between the parties on 28.03.2013. However, the prosecution pointed out that even after the alleged compromise, the anticipatory bail application filed by the applicant before the High Court was dismissed by order dated 04.04.2013. The Sessions Judge, accordingly, dismissed the anticipatory bail application by order dated 14.05.2013.

5. I have considered the facts on record and also heard the rival submissions. I have also perused the order passed by this Court (Mukta Gupta, J.) on 4.04.2013 in the Bail Application No.172/2013 filed by the applicant herein. The bail application was dismissed by observing as under:-

“The allegations of assault in the FIR are that the Complainant had gone to see the brother-in-law when she did not cover her face. Her mother-in-law did not like her being unveiled in front of the brother-in-law. When the Petitioner came back in the night the mother-in-law complained to the Petitioner, who pushed the Complainant out of the room so as to throw her out of the matrimonial home and also assaulted her. The MLC shows swelling and bruises on the left cheek and tenderness on the left shoulder.

In view of the immediate MLC got conducted which shows assault on the complainant, I am not inclined to grant anticipatory bail to the Petitioner.”

6. The aforesaid order was passed by this Court after the alleged compromise was entered into between the parties on 28.03.2013. No attempt appears to have been made before this Court to draw its attention to the alleged compromise entered into between the parties.

7. In the course of the hearing before me, a copy of the order passed by the Additional Principal Judge, Family Court, Rohini on 1.04.2013 in the application filed by Geeta Rajeshwari, the complainant herein, in case No.291/2012 was filed by the learned Public Prosecutor. The application was filed on the ground that the compromise arrived at on 28.03.2013 was not voluntary and was reached under threat and undue influence upon the appellant and a prayer was made for setting aside the same. This plea was, however, not entertained by the Family Court on the ground that a case disposed of as compromise cannot be re-entertained or revived. From the order of the Family Court, it is seen that immediately after the alleged compromise was entered into, the complainant had moved to get it set aside on the ground that it was obtained under threat or undue influence. Though

this order was passed on 1.04.2013, there was no attempt on the part of the applicant herein to rely on the compromise before this Court when it passed the order in the bail application filed by the applicant in Bail Application No.172/2013.

8. Taking into consideration, the above circumstances and the fact that this Court has already rejected the bail application of the applicant and keeping in view the fact that there is no change in the circumstances, I see no reason for grant of anticipatory bail to the applicant. This application is, accordingly, rejected.

(R.V. EASWAR)
VACATION JUDGE

June 07, 2013

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