

Criminal Miscellaneous No.M-13872 of 2015 (O & M)

Date of Decision: *July 24, 2015*

Sukhwinder Singh

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. Vikram Preet Arora, Advocate, for the petitioner.

Mr. Deepak Garg, Assistant Advocate General, Punjab,
assisted by Mr. Prashant Bansal, Advocate, for the
complainant.

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1. Whether Reports of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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Jaspal Singh, J

Crl. Misc. No.22026 of 2015

Application is allowed as prayed for.

Documents, Annexure C-1 and C-2, are taken on record.

Crl. Misc. No.M-13872 of 2015

1. The present petition has been preferred by Sukhwinder
Singh – petitioner, under Section 438 Cr.P.C. for grant of pre-arrest

bail, feeling apprehension of his arrest, in case bearing FIR No.13 dated March 10, 2015, under Sections 498-A, 506, 323 IPC, registered at Police Station, Women Cell, Patiala.

2. Briefly stated, case of the prosecution is that marriage of Manvinder Kaur – complainant was solemnised with Sukhwinder Singh – petitioner, 14 years ago and out of their wedlock, three children were born. It is alleged that on November 2, 2014, her husband – Sukhwinder Singh and her brother-in-law Lakhwinder Singh gave merciless beatings on the instigation of Nirmal Singh (father-in-law) and Raj Kaur (mother-in-law). Thereafter, she called police and narrated the entire episode. She was admitted in A.P. Jain Hospital, Rajpura, where she was subjected to medical examination and was discharged on November 7, 2014. When she returned to home, she found that her house was lying locked and lock of her room had been changed. Similarly, LCD was also found to be missing and cable connection was disconnected. She has been constantly harassed and maltreated by petitioner and his family members.

3. It has further been unfolded by her in FIR that infact, her husband and family members intended to usurp the amount of sale consideration which has been earned by her from land of her parental family. They demanded the said amount. On refusal, she was maltreated and beaten mercilessly. On these allegations of maltreatment, harassment and usurping of her money, FIR was registered and investigation was put into motion.

4. Contention of learned counsel for the petitioner is that complainant has levelled false and frivolous allegations not only against the petitioner but also against his family members just to defame them in their social circle/society. Infact, complainant and her brother used to commit various acts of cruelty towards petitioner. She used to indulge in abusive language. Due to misconduct of complainant, even father of petitioner has also disowned the complainant as well as petitioner. Complainant was neither maltreated at any point of time nor she was asked to pay the amount possessed by her. Instant case has been registered by complainant just to deter the petitioner as well as his family members to have her smooth relationship with Maninder Singh, who is none else but brother-in-law (Jeeja) of petitioner. Such a relationship in between complainant and Maninder Singh has also been admitted by complainant in compromise Annexure P-2 as well as at subsequent stage. Though, she had agreed to discontinue her relation with Maninder Singh but even after compromise, she continued. Instant FIR, thus, is nothing but a counter-blast to same.

5. It has further been contended by learned counsel for the petitioner that petitioner has already joined investigation in compliance of order dated April 30, 2015. Since, no recovery of any dowry article is to be effected from petitioner, his custodial interrogation is also not at all necessary. However, petitioner undertakes to join investigation as and when required by police as well as to abide by all the terms & conditions in case he is granted concession of pre-arrest bail.

6. Per contra, learned State counsel assisted by learned counsel for complainant has strongly opposed the submissions made by learned counsel for the petitioner and has submitted that complainant never developed illicit relation with Maninder Singh, and a false allegation just to assassinate her character has been levelled by the petitioner and his family members. Even when an inquiry was conducted by police, those allegations have been found to be false. But, despite that fact, even same allegations have been reiterated by petitioner in this bail application.

7. It has further been submitted by learned State counsel that petitioner as well as her family members have given severe beatings to complainant in the month of November 2004, as a result of which, she had to get treatment from Hospital. At this juncture, learned counsel for the complainant has also produced certain photographs showing injury marks on the body of complainant, who remained admitted in hospital for about 5 days and was discharged on November 7, 2014. Not only this, even after filing of instant petition and obtaining a favourable order dated April 30, 2015, petitioner is continuously harassing her and extending threats to her life. She was constrained to lodge a complaint with police authorities, copy of which has also been placed on file. Thus, petitioner does not deserve the concession of pre-arrest bail.

8. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and perused the record.

9. Undisputably, marriage of petitioner was solemnised about 14 years ago and out of their wedlock, three children were born who are at present in the care and custody of petitioner. Much stress has been laid by learned State counsel as well as learned counsel for complainant that petitioner caused harassment to petitioner and tormented her on various occasions, especially, on November 2, 2014 when she was admitted in A.P. Jain Hospital, Rajpura and remained under medical treatment and that, allegations with regard to character hurled by petitioner were held to be not established during inquiry by police but this fact is otherwise evident from contents of compromise which was admittedly arrived at between the couple. Allegations unfolded in the complaint lodged by complainant against petitioner after institution of instant petition are still to be inquired into by the concerned authority.

10. Moreover, no specific opinion can be expressed at this stage while disposing of petition under Section 438 Cr.P.C. as any such observation or opinion can affect the investigation and cause prejudice to the parties but one thing is an admitted fact that in compliance of order dated April 30, 2015, petitioner has already joined investigation.

11. It is a matter of evidence to be proved during trial whether allegations levelled by complainant qua petitioner are true and established. It is also an undeniable fact that all the three minor children are being looked after and taken care of by petitioner. Thus, without expressing any opinion on merits of the case, this Court finds that a

good case is made out for exercising discretion envisaged under Section 438 Cr.P.C.

12. Accordingly, petition is allowed. Petitioner is ordered to be released on interim bail, in the event of arrest, at the satisfaction of Arresting Officer subject to following provisions envisaged under Section 438(2) Cr.P.C.:-

- i) He will make himself available for investigation as and when required to do so;
- ii) He will not leave the country without the prior permission of the Court;
- iii) He will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police official.

July 24, 2015
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(Jaspal Singh)
Judge