

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 203

Criminal Miscellaneous No.M-30072 of 2014 (O & M)
Date of Decision: May 07, 2015

Amarjit Singh

..... PETITIONER

VERSUS

State of Punjab & another

..... RESPONDENTS

...

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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1. Whether Reporters 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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PRESENT: - Ms. Sukhpreet Grewal Kapila, Advocate, for the petitioner.

Mr. Jaspreet Singh Sekhon, Assistant Advocate General,
Punjab.

Mr. H.S. Bath, Advocate, for Mr. Vipin Mahajan, Advocate,
for respondent No.2 – complainant.

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Jaspal Singh, J

1. Instant petition has been preferred by Amarjit Singh under Section 438 Cr.P.C. for grant of pre-arrest bail, feeling apprehension of his arrest in case FIR No.86 dated August 2, 2014 under Sections 498-A, 406, 324, 323, 120-B, 34 IPC, registered at Police Station, Sadar, Gurdaspur.
2. Contention of learned counsel for the petitioner is that a false FIR has been registered against petitioner and his family members by concocting a

false story. Infact, no such occurrence ever took place. Moreover, a bare perusal of FIR depicts that petitioner filed a complaint against his wife – complainant on October 7, 2013 for conducting an enquiry into the calls received on her mobile phone from different unknown persons. He also suspected that those unknown persons have illicit relations with her. During enquiry into said complaint, it was established that his wife – complainant was regularly receiving phone calls from unknown persons at odd hours and she also used to talk with them. Subsequently, on April 6, 2014, complainant alongwith her parents accompanied by 25/30 persons unknown persons forcibly barged into the house of petitioner and caused beatings to him as well as his mother besides causing damage to the valuable articles. On account of said incident, petitioner lodged a complaint on the same day and also submitted a detailed report to Senior Superintendent of Police, Gurdaspur on April 8, 2014 which was duly received in the office of SSP. Meanwhile, there was press report in respect of occurrence in respect of which, ASI – Dalbir Singh was sent to Civil Hospital, Gurdaspur, for recording the statements of alleged injured, namely, Amarjit Kaur wife of Kulwinder Singh, Balwinder Singh son of Surjit Singh and Amarjit Kaur wife of petitioner. When he reached there for recording statements, it was unfolded by the doctor concerned that all the three persons have left hospital without any intimation. Thus, aforesaid fact clearly transpires that by April 10, 2014, there was no MLR qua the above named persons. But, lateron, complainant procured a fabricated MLR just to falsely implicate the petitioner and his family members in the instant case. Moreover, instant FIR is nothing but a counter blast to divorce petition preferred by him on April 16, 2014, notice of which was given to his wife for May 27, 2014. Soon-after receiving notice of divorce petition, she lodged false complaint dated May 14, 2014 to SHO,

Police Station, Sadar, alleging dowry harassment and subsequently succeeded in getting registered the instant case.

3. It has further been submitted by learned counsel for the petitioner that co-accused of petitioner have already been granted the concession of pre-arrest bail and petitioner is also ready to join investigation as and when required by police as well as to abide by all the terms & conditions in case he is granted the concession of bail.

4. On the other hand, learned State counsel as well as counsel representing the complainant have strongly opposed the instant petition for pre-arrest bail contending that petitioner, accompanied by some persons barged into the house of complainant and caused injuries not only to her but to her father as well as Amarjit Kaur wife of Kulwinder Singh. They prayed for dismissal of this petition.

5. This Court has given a deep thought to the rival submissions made by learned counsel for parties and gone through the record available.

6. Mere fact that a report has been incorporated in DDR by ASI – Dalbir Singh that when he visited Civil Hospital, doctor reported that injured have already left the hospital, without any intimation, does not *ipso facto* mean that complainant and other injured were not medico-legally examined by the concerned Medical Officer. There is nothing on record to suggest that copies of MLR are fake, fabricated or forged. Injured were examined on the day of occurrence i.e. April 6, 2014 itself. Balwinder Singh son of Surjit Singh sustained two incised wounds. Amarjit Kaur wife of Kulwinder Singh also sustained two injuries. Similarly, copy of MLR in respect of Amarjit Kaur wife of petitioner reveals that she also unfolded complaint of pain in her abdomen, head, both legs, eyes as well as her feet, though, no visible mark of injury was noticed.

7. The case of Co-accused of petitioner who have already been granted the concession of pre-arrest bail cannot be equated with petitioner. He being the husband of complainant can be termed to be custodian of dowry articles and further that he was instrumental in causing injuries to the complainant as well as Balwinder Singh and Amarjit Kaur wife of Kulwinder Singh. Similarly, registration of FIR after filing of petition under Section 13 of the Hindu Marriage Act, 1955 by petitioner is also of no value to discard the version unfolded by the complainant at this stage. Rather, this Court is of the considered view that custodial interrogation of petitioner is required and grant of pre-arrest bail to the petitioner would certainly hamper the fair and smooth investigation of this case.

7. In the light of what has been discussed above, this Court finds no merit in the instant petition and the same is dismissed.

8. While parting with this order, it is made explicit that anything observed in this order shall have no bearing on merits of the main case and observation, if any made, shall remain limited to disposal of this petition.

May 07, 2015
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(Jaspal Singh)
Judge