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

CRM-M No.3102 of 2014 (O&M)

Date of Decision: 27.03.2015

DR. SATVINDER SINGH CHOUDHARY

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Arvind Singh, Advocate
for the petitioner.

Mr. Rajesh K. Sheoran, Addl. A.G., Haryana.

Mr. Parminder Singh, Advocate
for the complainant.

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?***

RAJ MOHAN SINGH, J.

Petitioner seeks grant of anticipatory bail in case bearing
FIR No.1013 dated 07.12.2013 under Sections 323, 494, 498-A,
354, 506 IPC, Police Station Karnal Civil Lines, District Karnal.

Learned Senior counsel for the petitioner states that
marriage of the petitioner was solemnised with the complainant-Ritu
Jaglan on 28.03.2004 and since 30.06.2004, parties are living
separately and the marriage is irretrievably broken down.

Petitioner filed petition under Section 13 of Hindu Marriage

Act for dissolution of marriage which was dismissed by the trial Court, however FAO-M No.323 of 2009 is statedly pending. Petitioner alleged that before registration of present FIR, the complainant made a complaint to the Police on 22.10.2013, wherein no allegations of dowry qua husband were made. Petitioner also relies upon factum of FIR No.1012 dated 07.12.2013 got registered by his father which was registered on account of evil design of the complainant. However the said FIR was cancelled against which protest petition is statedly pending.

Learned Senior counsel for the petitioner further states that since 30.06.2004 till 22.10.2013 no complaint whatsoever was made by the complainant. However this assertion was sought to be repelled by learned counsel for the complainant by referring to complaint dated 11.11.2013 filed under Domestic Violence Act.

Learned Senior counsel for the petitioner highlights that even in the said complaint, the complainant has not mentioned any incriminating allegation of any inhuman behaviour at the instance of petitioner. The relevant extract of para No.6 of the said complaint gives the following reading:-

“.....Moreover till date, neither the respondent No.1 nor, any of the respondents ever came to bring back the complainant to her matrimonial home as since Sawan 2004, the complainant is living in her parental house at the mercy of her poor parents.....”

Learned Senior counsel for the petitioner also relied upon

list of dowry articles Ex.R-4 given along with the written statement filed in the divorce petition in the year 2006. Petitioner is alleged to have issued legal notice (Annexure P-2) on 24.02.2006 in the context of dowry articles lying with him.

Para No.4 and its sub paras of legal notice are being pressed into service to show the *bona fide* of petitioner in the context of his willingness to return the dowry articles lying with him. A reply to this legal notice is shown to have been filed by complainant-Ritu Jaglan. In reply to paras No.4 and 5, complainant has only reiterated the fact that she belongs to a respectable family having rich heritage and she will ever live with her husband if he resides separately from his parents. In para No.5 of the reply she further reiterated that she is also willing to reside with her husband and his parents subject to giving proper protection of live and from unnecessary harassment, torture or coercion etc.

Learned Senior counsel for the petitioner stressed that averments made in para No.4 of the legal notice remained unanswered by the complainant.

Heard.

During the pendency of arguments much emphasis was laid on the factum of retention of dowry articles by the petitioner.

Learned counsel for the complainant reiterated the allegations and stated that husband has contracted second marriage and the Police has not investigated this aspect of the matter to

ascertain true facts. Learned counsel further submitted that recovery of the dowry articles have not been made and reply given by complainant in pursuance to the legal notice was the stand coming out from her heart inasmuch as that she being Hindu lady does not wish to get separated in this manner.

The matter was tried before the Mediation and Conciliation Centre of this Court and despite various sessions held therein, parties have failed to arrive at any amicable settlement between them.

On 04.03.2015 after hearing the arguments at some length this Court passed the following order:-

“There is a serious dispute with regard to recovery of dowry articles as according to the complainant some old articles were recovered by the Police at one point of time and those were not identified by the complainant. Resultantly, these articles were sent back to the house of petitioner.

According to learned counsel for the complainant only five articles namely Samsung TV, Motor cycle, Cooler, Two gold rings and one pair of tops were the genuine recoveries and those articles are lying with the Police.

Today a fresh list of dowry articles has been handed over to the learned counsel for the petitioner.

Let the petitioner verify the remaining articles which are still to be recovered and also prepare a rough estimate of cost alternatively.

Adjourned to 18.03.2015.”

Even during the course of arguments, much emphasis was

laid on the dowry articles which have not been recovered so far. Even as per calculations carried out by both the parties, there is difference in valuation as according to petitioner total value of dowry articles lying un-recovered is approximately 5.5 lakhs, whereas as per the complainant the amount of un-recovered articles cannot be less than 7 lakhs in any case.

The complainant has also sought to highlight the fact that petitioner is alleged to have been disowned by his parents but the petitioner has got executed some Release Deed in favour of his mother, relinquishing the properties so as to avoid any prospective claim of the complainant.

This Court vide order 28.01.2014 has already granted protection of interim bail to the petitioner, subject to his joining investigation.

In view of the above, without adverting to the allegations and counter-allegations of both sides, this Court is of the opinion that since the petitioner is ready to part with the amount of Rs.5.5 lakhs towards proposed estimated cost according to him. Therefore, it would be in fitness of things at this stage that interim bail granted to the petitioner vide order dated 28.01.2014 is made absolute, subject to his depositing an amount of Rs.5.5 lakhs in the trial Court which will be paid to complainant subject to her furnishing adequate surety to the satisfaction of the trial Court. This will however be without prejudice to any civil right of the parties in any other proceedings.

This petition is allowed, however, petitioner is directed to join the investigation as and when called upon to do so by the Investigating Officer and he shall abide by the conditions envisaged under Section 438(2) Cr.P.C.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 27, 2015

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(RAJ MOHAN SINGH)
JUDGE