

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 33125 of 2015 (O&M)
Date of Decision: 20.11.2015

Gamandeep Singh

..... Petitioner

Versus

State of Punjab and Another

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. N.P.S. Mann, Advocate
for the petitioner.

Mr. Jashanpreet Singh, AAG, Punjab.

Mr. R.S. Bains, Advocate
for respondent No. 2/complainant.

M.M.S. BEDI, J. (ORAL)

Petitioner seeks concession of pre-arrest bail in a case registered at the instance of Preet Kamal-respondent No. 2 alleging that she was married to the petitioner on 30.10.2011. The petitioner and his family members used to torture and harass the complainant on account of having not brought sufficient dowry. The petitioner allegedly forced the complainant to abort a child and thrown her out of the matrimonial home and misappropriated the dowry articles.

Counsel for petitioner has vehemently contended that the complainant was already married to one Urmeet Singh Uppal of Patiala and that the factum of first marriage had been concealed. He has filed a petition for declaring their marriage null and void on 20.11.2014. The petitioner

claims that false involvement of the petitioner by lodging an FIR in the month of May 2015 by the complainant, is a counter-blast to the petition filed by him.

Learned counsel for the complainant has intervened to oppose the application for bail and contended that the factum of earlier marriage of the complainant with an NRI was known to the petitioner and the petitioner being known to the complainant before her marriage to Urmeet singh Uppal had agreed to marry her after a *panchayati* divorce with the earlier husband.

Learned State counsel, on instructions from ASI Raghubir Singh, states that recovery has not yet been effected which fact has been denied by counsel for the petitioner.

I have heard learned counsel for the parties.

The conduct of the petitioner having turned out the complainant from matrimonial home, her forcible abortion, petition for divorce for nullity of their marriage having been filed, inhuman behaviour and disrespect to his wife, are apparently the acts falling under the definition of cruelty. This Court is of the considered opinion that a wife would not leave her matrimonial home, unless and until she is forced to do so by the act and conduct of her husband or in-laws. It will be a debatable issue whether the factum of earlier marriage of the complainant with an NRI and being ineligible for marriage with the petitioner, leading to filing of petition for annulment of the marriage would in any manner be a reason to launch prosecution against the petitioner for cruelty and misappropriation of dowry articles.

However, the above circumstances do not warrant the concession of pre-arrest bail to the petitioner otherwise it would tantamount

to defeating the objective of Section 498-A I.P.C.

The petition is dismissed, without prejudice to the rights of the petitioner to seek regular bail. The petitioner may approach this Court for a similar relief in case the matter is amicably resolved.

Disposed of.

November 20, 2015
'dk kamra'

(M.M.S. BEDI)
JUDGE