

**101+201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.7662 of 2015(O&M)

Date of decision : 07.07.2015

Meghna Saini

..... Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Tarun Vir Singh Lehal, Advocate for the petitioner.
Ms.Amarjit Kaur Khurana, Addl.AG, Punjab.
Mr.Ramneek Vasudeva, Advocate for respondent No.2.

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?

AJAY TEWARI, J. (Oral)

CRM Nos. 20620-20621-2015

CRMs allowed. Annexures R-2/1 to R-2/5 taken on record.

CRM-M No.7662 of 2015

This is an application for cancellation of anticipatory bail granted to the respondent No.2(petitioner in CRM-M No. 20336 of 2014) in a case bearing FIR No. 09 dated 26.04.2014, under Section 498-A, registered at Police Station NRI, District Shaheed Bhagat Singh Nagar, Punjab.

On 10.06.2014 the following order was passed in CRM-M

No. 20336 of 2014:-

“ Petitioner is husband of Meghna Saini, an NRI. He married her on 30.5.2013. There are allegations of cruelty on account of demand of dowry against the petitioner. Counsel for the petitioner submits that there are chances of reconciliation and he is ready to resume cohabitation.

I have heard the learned counsel for the petitioner and gone through the allegations. It appears that the petitioner has lodged a complaint against his wife vide Annexure P3 levelling allegations that he has given money to the complainant and had been cheated by her.

Notice of motion to the Advocate General, Punjab, for 18.6.2014 to determine the status of the investigation.”

Thereafter on 18.06.2014 the following order was passed:-

“ Learned State counsel submits that efforts for reconciliation could not be made as the complaint was sent through e-mail from abroad where complainant is residing. The petitioner assures to make sincere efforts for reconciliation whenever the complainant comes to India. Learned counsel for the petitioner further contends that complainant was a divorcee and she was required to send her divorce papers so that marriage of the complainant and the petitioner could be registered in India. The State counsel would also furnish the response to the above contention on the next date.

Learned State counsel on instructions from HC Sohan Singh, states that recovery of one gold kara and gold ring is yet to be effected. The petitioner has yet to join the investigation after this petition was filed. The petitioner in the meanwhile is directed to join investigation on 26.06.2014 and keep on co-operating with the same and to comply with the restrictions contained in Section 438(2) Cr.P.C.

List on 12.08.2014.”

Thereafter on 12.08.2014 the following order was passed:-

“ This is an application for anticipatory bail filed in a matrimonial dispute.

Learned counsel for the petitioner has again reiterated that he is ready to have an amicable settlement of this dispute but for this purpose the arrest of the petitioner should be stayed and the family of the complainant should be ready to at least see if some meeting around can be arrived at.

Learned counsel for the complainant has very fairly

stated that for this purpose he would not oppose the extension of the interim bail granted to the petitioner and his clients are not averse to meeting the petitioner or his family members for any settlement.

Adjourned to 11.09.2014.”

Then on 11.09.2015 the following order was passed:-

“ Learned counsel have agreed that the petitioner shall meet the father-in-law on Sunday i.e.14.09.2014 at Maharaja Ranjit Singh Bagh, Verka Milk Booth, Roopnagar.

Adjourned to 13.11.2014.”

Then on 13.11.2014 the following order was passed:-

“ Learned counsel state that though the parties met, yet there are no chances of rehabilitation of the marriage. Learned counsel for the respondent states that if the petitioner is ready to return the personal articles of the daughter of the complainant they would have no objection in getting this marriage dissolved and ending this painful chapter in the lives of both the parties. Learned counsel for the petitioner on the other hand states that no personal articles of the daughter of the complainant are with the petitioner and apart from that the petitioner might not be opposed to the idea of divorce.

Learned counsel seek a short adjournment.

Adjourned to 25.11.2014.”

It would be seen thus that the idea of a divorce between the parties was mooted on that date for the first time. Thereafter on 12.12.2014 the following order was passed:-

“ Learned counsel for the petitioner seeks more time.

Learned counsel for the complainant states that even as per his latest instructions there are no chances of rehabilitation of the marriage but if the petitioner is ready to return her one gold Kara and one ring of 7 tolas she would have no objection to the bail being granted to the petitioner and she would have no objection bringing an end to this marriage. Learned counsel for the petitioner states that he shall hand over the aforesaid gold ornaments to learned counsel for the complainant on the next date.

Adjourned to 22.12.2014."

A perusal of this order also reveals that even on that date it was understood by both the parties that the complainant had given up all her other claims regarding marriage expenses and other gifts and had unequivocally stated that if respondent No.2 would hand over to her one gold Kara and one ring she would be ready to terminate the relationship. This option was specifically made by the complainant side and specifically accepted by the respondent No.2. Thereafter on 22.12.2014 the following order granting bail to the respondent No.2 was passed :-

" Prayer in the present petition filed under Section 438 of the Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.09 dated 26.04.2014 registered under Section 498-A IPC at Police Station NRI,P.S. District SBS Nagar. The petitioner and the father of the complainant are present in person. In terms of the last order the petitioner has handed over 1 gold Kara and 1 gold ring to the father of the complainant.

It has now been agreed that the complainant will come back in India or will send her power of attorney to her father to file a petition for divorce by mutual consent on 18.02.2015 before the Matrimonial Court at Ropar and the handing over of the aforesaid items today is in full and final settlement of the claims of both the parties against each other.

In these circumstances, I do not deem it appropriate to deny anticipatory bail to the petitioner.

Resultantly, the petition is allowed. The interim order dated 18.06.2014 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of."

The complainant got filed the petition for divorce but the non-applicant-respondent No.2 not having appeared, the present petition i.e. CRM-M No. 7662 of 2015 was filed. Notice was issued and

on this occasion Mr.Ramneek Vasudeva, Advocate appeared on behalf of respondent No.2 and the following order was passed on 28.05.2015:-

“ Mr. Ramneek Vasudeva, Advocate has entered appearance on behalf of respondent No.2.

Learned counsel for the petitioner states that even though by not appearing in terms of his undertaking before the Matrimonial Court on 18.02.2015 the respondent No.2 has rendered himself liable for cancellation of bail order yet the petitioner would not press this petition in case the respondent No.2 even now appears and file a petition for divorce by mutual consent.

Learned counsel for the respondent No.2 states that the only doubt which the respondent No.2 has is that there is no guarantee that the petitioner would not prosecute this FIR even after grant of divorce.

Learned counsel for the petitioner states that the petitioner undertakes to co-operate with the respondent No.2 for the quashing of this FIR on the basis of compromise in case the respondent No.2 is willing to appear and grant the divorce to the petitioner as agreed.

I find the stand of the petitioner to be fair. In these circumstances, the respondent No.2 is granted one more opportunity to appear before the Matrimonial Court at Ropar on 08.06.2015 to proceed further with the divorce petition in view of the the undertaking in terms of order dated 22.12.2014 and in that event the petitioner would co-operate with the respondent No.2 to get this FIR quashed by way of the compromise.

Adjourned to 07.07.2015.”

Thus even on 28.05.2015 respondent No.2 held out an assurance that he would appear in Court subject to the complainant agreeing to cooperate with him for quashing the FIR she had lodged against him. Again the respondent No.2 has not appeared in Court admittedly and today an entirely new story is being trotted out about how he has in fact been duped by the complainant. Learned counsel for respondent No.2 has argued that in any case now the respondent No.2 has joined the trial and even charge has been framed and, therefore, on

this count the bail should not be cancelled and the present application should be dismissed.

I am afraid this vacillating stand of respondent No.2 cannot be countenanced. I have to come to the reluctant conclusion that respondent No.2(petitioner in CRM-M-20336-2014) obtained an order of bail by overreaching this Court and by making false assurances.

Consequently the present petition viz. CRM-M No. 7662 of 2015 is allowed and the anticipatory bail granted to the respondent No.2(petitioner in CRM-M No. 20336 of 2014) vide order dated 22.12.2014 is cancelled.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

July 07, 2015
sunita