

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-8746 of 2015

Date of Decision: December 17, 2015

Dikshit Gulati

.....Petitioner

Vs.

State of Punjab and anr.

.....Respondents

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

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Present:- Mr.Deepak Sabharwal, Advocate
for the petitioner.

Mr. H.K. Athwal, DAG, Punjab.

Mr. R.S. Bajaj, Advocate for the complainant.

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M.M.S. BEDI, J.

Petitioner seeks the concession of pre-arrest bail in a case registered at the instance of his wife Aditi Gulati alleging that she was married to the petitioner on October 5, 2009. Two children were born out of the wedlock. The petitioner alongwith his family members had allegedly maltreated, tortured and harassed the complainant by demanding dowry, besides misappropriating the dowry articles. She was thrown out of the matrimonial home. The allegation against the petitioner is that he is

involved in the business of gambling and he demanded money from the father of the complainant for the loss caused to him while gambling.

Before deciding the case on merits, this Court deemed appropriate to give a fair opportunity to the petitioner to amicably resolve the dispute taking into consideration the welfare of the two minor children born out of the wedlock. The matter could not be resolved by the Mediators as such this Court has made an attempt to mediate in order to enable the parties to resume cohabitation. The mother of the petitioner was also involved. She has fairly stated that she has got no objection in case the complainant starts residing with her son alongwith the minor children in her house or separately. The couple was also heard in person. It appears that on account of the earlier conduct of the petitioner, the complainant has developed a fear on account of she being terrified. She has lost faith despite the fact that husband, while appearing before this Court had offered for re-union. The matter in the above said background was taken up on merits.

Learned counsel for the petitioner has submitted that after the death of father of the petitioner, he has suffered a huge loss and the Debt Recovery Tribunal had ordered the repayment of the amount and on account of financial constraints, the partners of the petitioner have also betrayed him. The husband has filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights besides filing a petition under Section 25 of the Guardian and Wards Act for the custody of the children. Counsel submitted that it is a case where the entire family members have been

wrongly roped in. As a matter of fact the wife had gone for few days to her parents house but she did not return. It was argued by learned counsel for the petitioner that the entire gold ornaments have been taken by the complainant whereas counsel for the complainant has submitted that the gold belonging to the complainant had been mortgaged with the bank. On payment of the loan, the redeemed ornaments have been retained by the husband.

Counsel for the complainant –wife and State counsel had opposed the petition for pre-arrest bail on the ground that a sum of Rs.10 lacs had been received for buying a Car by the in-laws of the complainant. A sum of Rs.15 lacs had been deposited by the father of the complainant to discharge the liability standing towards the bank. The loan of Rs.9 lacs was taken against jewellery but after re-payment of the loan, the jewellery was not returned to the complainant.

I have heard learned counsel for the petitioner and State counsel besides counsel for the complainant. In the present case, the wife alongwith two minor children, compelled under the circumstances is residing at her parental house. The offer for resuming cohabitation expressed in the shape of a petition under Section 9 of the Hindu Marriage Act is not sufficient enough to rebuild the faith which has been breached by the treatment of the petitioner towards his wife. The extent of cruelty appears to have exceeded to such an extent that is not feasible for the complainant to gather courage for re-union. Even if it is presumed that the wife at present is not taking

steps for reconciliation, the husband cannot be absolved of his criminal liability of having treated her with cruelty creating a distress in the mind of the wife. No female would generally leave the company of her husband alongwith the minor children unless and until there are extraordinary adverse compelling circumstances which constitute an element of cruelty. The objective of Section 498 A IPC would be defeated in case in the situation like the one existing in the present case the husband is granted the concession of pre-arrest bail. The circumstances may warrant the grant of regular bail but no extraordinary exceptional circumstances exist to grant the concession of pre-arrest bail to the petitioner as it has been claimed that certain dowry article which include diamond rings and other items are yet to be record.

Dismissed.

December 17, 2015
sanjay

(M.M.S.BEDI)
JUDGE