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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 4360/2014

MS. JOLLY SINGH Petitioner

Through: Mr. Satyendra Kumar and Ms.
Sunita, Advocates

versus

STATE (GOVT. OF NCT OF DELHI) & ANR Respondents

Through: Mr. Panna Lal Sharma, Additional
Public Prosecutor for respondent-
State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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21.08.2015

Crl.M.A.2930/2015 (for restoration)

By way of this application, restoration of main petition is sought.

For the reasons stated in the application, it is allowed and main petition i.e. CRL.M.C. 4360/2014 is restored to its original number and position.

The application is accordingly disposed of.

CRL.M.C.4360/2014

Vide order of 27th May, 2014 (*Annexure-G*) second respondent, who is the estranged husband of petitioner, has been granted bail by Sessions Court in FIR No. 245/13 under Sections 406/498-A/34 of IPC registered at P.S. Lajpat Nagar, New Delhi.

It is recorded in the impugned order that petitioner-complainant

admits that no dowry was given in her marriage and that respondent-accused is in custody since 13th May, 2014 and that the undertaking given by respondent-accused's counsel in the earlier application for pre-arrest bail was given without considering the status of respondent-accused, who is poor and unemployed and is unable to settle the matrimonial dispute by paying ₹5 lacs.

At the hearing, learned counsel for petitioner-complainant submitted that respondent-accused had undertaken before another Bench of this Court that he would pay ₹2.5 lacs by particular date and on that undertaking, interim order was passed and the said order was unsuccessfully challenged by respondent-accused before the Apex Court. It may be so, but the ground realities and financial status of the parties have to be considered and it is not unusual that in order to get relief, counsel may at times, undertake to settle such disputes for a particular amount while hoping that the accused would agree. Inability of an accused to pay the promised amount has already resulted in dismissal of his pre-arrest bail application and respondent-accused has remained in custody in the instant case for many days and thereafter only, he was granted regular bail without any pre-conditions.

No doubt, if an accused fails to pay the promised amount, then the relief sought is not to be granted. In the instant case, respondent-accused has failed to pay the settled amount and so, his pre-arrest bail was rightly dismissed. However, non-payment of the settled amount cannot be a ground to cancel respondent-accused's regular bail because the parameters governing grant of regular bail are quite different than the considerations which weigh in granting pre-arrest bail.

In the facts and circumstances of this case, I find no justification whatsoever to cancel the regular bail granted to respondent-accused because he was not granted regular bail on any pre-conditions nor he has misused the concession of regular bail.

This petition stands accordingly dismissed.

(SUNIL GAUR)
JUDGE

AUGUST 21, 2015

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