

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 09/2015**

Date of Decision : December 22nd, 2015

MADHU RANI Petitioner
Through Mr.Abhinav Tyagi, Adv.
versus

STATE (GOVT OF NCT OF DELHI) & ANR. Respondents
Through Mr.Arun Kr. Sharma, APP.
Mr.Mohit Bansal, Adv. for
Respondent No.2.
SI Anuj Kumar, PS Anand Vihar.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioner for setting aside the order dated 08.12.2014, passed by the learned Additional Sessions Judge-03 (East), Karkardooma Court, Delhi whereby the revision petition filed by the respondent No.2-herein, Smt. Janak Lata Narang has been allowed.
2. Factual matrix, emerges from the record, is that the

complainant/respondent No.2 had made a complaint in Crime Against Women Cell, Krishna Nagar, Delhi against the accused persons including the petitioner, who is mother-in-law of the respondent No.2-herein. On the basis of complaint of the respondent No.2/complainant, an FIR No.573/2005 under Section 498A/406/34 IPC, Police Station Anand Vihar was registered against the accused persons. The petitioner-herein moved an application for the grant of anticipatory bail which was allowed by the learned Additional Sessions Judge vide order dated 28.12.2005 while observing that amount of Rs.1.5 lac shall be kept in the FDR for a period of three years in the name of the complainant Smt. Janak Lata Narang. Thereafter, the charge sheet was filed in the Court. Vide order dated 30.08.2013, the accused persons including the petitioner were discharged. The petitioner moved an application for return of FDR which was allowed vide order dated 13.10.2014. Thereafter, the complainant/respondent No.2 filed a revision petition against the order dated 13.10.2014, which was allowed by the learned Additional Sessions Judge vide order dated 08.12.2014. Against the passing of this order, the present petition has been filed by the petitioner.

3. Arguments advanced by the learned counsel for the petitioner are that the amount was deposited in the FDR in lieu of gold articles without prejudice to the defence of the petitioner that no gold articles were ever entrusted to her. The said amount was ordered to be kept to secure the presence of the petitioner and not to enrich the complainant. It is further argued that all the accused persons have been discharged and the amount deposited should have been returned to the petitioner. The money is still lying with the bank and it can easily be released in favour of the petitioner as she is the rightful holder of the money after getting discharged.

4. In the present case, an FIR No.573/2005, Police Station Anand Vihar under Section 498-A/406/34 IPC was registered against the petitioner and other accused persons. The petitioner had moved an application for the grant of anticipatory bail, which was allowed by the learned Additional Sessions Judge vide order dated 28.12.2005 which reads as under :

“She is mother-in-law of the complainant. She is aged about 60 years. House search has already been conducted by the IO but no gold could be recovered. Applicant is ready to pay Rs.1.5 lac in lieu of gold articles without prejudice to her defence that no gold articles were ever entrusted to

her. Amount of Rs.1.5 lac shall be kept in FDR for a period of 3 years in the name of Janak Lata Narang, complainant or till disposal of the charge sheet whichever is later. The FDR be deposited in the court on 4/1/06 where on court shall make the endorsement that no loan shall be granted against this FDR and no pre-mature release of the amount shall be done by the Bank Manager. On depositing FDR with the IO the applicant shall be released on anticipatory bail on his furnishing personal bond in the sum of Rs.10,000/- (ten thousand) with one surety in the like amount to the satisfaction of the IO/SHO. Copy of order be given dasti. I.O. shall hand over the FDR to the complainant after endorsement.”

5. Vide order dated 30.08.2013, passed by the learned Metropolitan Magistrate, all the accused persons including the petitioner-herein were discharged from the offences. Thereafter, on the application, the learned Magistrate vide order dated 13.10.2014 observed that the complainant has no claim whatsoever left in the said FDR and directed the complainant to deposit the FDR before the Court.

6. Feeling aggrieved of the passing of the order dated 13.10.2014, the complainant Smt. Janak Lata Narang preferred a revision petition which was allowed vide order dated 08.12.2014. The learned Additional Sessions Judge set aside the order dated 13.10.2014 passed

by the learned MM. Against the order of the revisional Court, the present petition has been preferred by the petitioner.

7. It is an admitted fact that the petitioner-herein was granted anticipatory bail by the learned MM subject to the condition that she should deposit the FDR for a sum of Rs.1.5 lacs in the name of the complainant Smt. Janak Lata Narang. It is apparent from the order dated 28.12.2005 of the learned MM that the petitioner was ready to pay Rs.1.5 lacs to the complainant in lieu of the gold articles. It is nowhere mentioned in the order dated that the successful party in the case would get the amount of FDR. Since the FDR was made in the name of the complainant, she has all the right over the same. The contention of the petitioner that since she has been discharged in the case, she has the right over the FDR in question, is without any basis. It was the petitioner who herself offered to make the payment of Rs.1.5 lacs in lieu of gold articles at the time of hearing on anticipatory bail.

8. In view of the facts and circumstances mentioned above, the petitioner has failed to make out any ground for exercising the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. to

set aside the order dated 08.12.2014 passed by the learned Additional Sessions Judge.

9. Consequently, the present petition is dismissed.

(P.S.TEJI)
JUDGE

DECEMBER 22, 2015
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