

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. 4744 of 2016 in/and
Crl. Misc. No. M-38074 of 2014
Date of Decision: 02.12.2016**

Hardeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.S.Sihota, Senior Advocate with
Mr. B.R.Rana, Advocate
for the petitioners.

Mr. Kirat Singh Sidhu, AAG, Punjab.

Mr. Yowan Sharma, Advocate
for the complainant.

ANITA CHAUDHRY, J(ORAL)
CRM-4744-2016

Heard.

The case is preponed and the application is allowed.

At the request of the counsel for the parties, the main case is
taken up for hearing today itself.

CRM-M-38074-2014

This petition for anticipatory bail had been filed in November
2014 in FIR No. 49 dated 11.7.2014 registered under Section 406, 498-A
IPC, Police Station Women Cell, Jalandhar City.

Interim bail was allowed to the petitioner on 11.11.2014.

Adjournment was sought by the petitioner on two occasions and in July
2015 it had been stated that the petitioner had resigned from the job and he

had lost the job due to recession in the I.T. Sector and he sought time to

bring some record. The interim order was continued. Thereafter a number of adjournments were taken by the petitioner. Either he did not appear or there was a request for adjournment.

The Co-ordinate Bench asked the parties to appear in person on 18.12.2015. The following order was passed on 18.12.2015:-

“Parties are present in person. The petitioner states that he is very keen to rehabilitate the marriage. The complainant on the other hand states that it would not be possible for her to rehabilitate the marriage but she would not be averse to a settlement whereby the petitioner may make arrangements for the minor daughter who is two years old. She has reiterated that she does not want anything for herself and whatever deposit the petitioner will make would be put in a fixed deposit for the benefit of the minor daughter and only interest would be used for her upbringing and maintenance. The petitioner prays for a short adjournment to respond to this.

Adjourned to 22.12.2015.

Let parties to the marriage be present in Court on the next date.”

On 22.12.2015, following order was passed on 22.12.2015:-

“Parties to the marriage are present. With the intervention of learned counsel this dispute has been settled. It has been agreed that the petitioner shall pay an amount of Rs.10 lacs to the complainant towards her claim for dowry articles, stree dhan, jewellery, maintenance, alimony etc. on or before 31.01.2016, Rs.5 lacs further by 31.01.2017, Rs.5 lacs by 31.01.2018 and the last payment of Rs.5 lacs by 31.05.2019. After the deposits of Rs.25 lacs have been made, the petitioner will file a petition for divorce by mutual consent in such a manner that the date of second motion is fixed on 31.05.2019. The complainant states that at the first deposit of Rs.10 lacs she would have no objection in being party to a petition for divorce under Section 13-B of the Hindu Marriage

Act.

On 31.01.2016 the parties shall meet in the Chamber of Sh.Mandeep Singh Sachdeva, Advocate and on the receipt of the first deposit of Rs.10 lacs they will file the petition for divorce by mutual consent. It has further been agreed that after the final payment is made the petitioner would be entitled to get this FIR quashed on the basis of today's compromise and it would not be necessary for him to get a fresh statement from the complainant if the entire payment has been made.

It is made clear that if the petitioner defaults on any payment it would be a ground for dismissing this petition. It has further been agreed that on the handing over of first deposit of Rs.10 lacs the complainant will withdraw the petition for maintenance under Section 125 Cr.P.C. The petitioner would also move an application for staying further proceedings before the court concerned and that Court shall stay the proceedings till 31.05.2019.

Adjourned to 20.07.2019.

Interim order to continue.”

The above orders would show that the parties were to meet in the chamber of the lawyer but the petitioner failed to appear. In January 2016 the complainant moved an application bearing CRM-4744-2016 for preponing the petition and dismissal of the petition as the petitioner had failed to turn up on the appointed day. It was also mentioned that a call was made on two dates and on 2.2.2016 the petitioner stated that he would not pay any amount nor he would abide by the order.

The petitioner approached the Supreme Court and filed SLP (Criminal) No. 1466 of 2016 on 5.2.2016 and while giving the list of dates he had mentioned that he was not keen to get a divorce and asserted that “as

relationship” and therefore he submitted that the order passed by the High Court should be set aside. The Hon’ble Supreme Court disposed of the petition on 26.2.2016 and passed the following order:-

“It is submitted by the learned counsel that it is very difficult for the husband to respect the consent. Be that as it may, as advised at present, we think, it will be appropriate on the part of the petitioner to approach the High Court for modification of the order. Be it clarified, we have not expressed any opinion on any of the aspects in the case.

With the aforesaid observation, the special leave petition stands disposed of.”

In the order dated 16.9.2016 it was noted that the petitioner was taking dates and was putting pressure on them through the councilor of the area to reduce the amount. It was also stated that a list of articles which had not been recovered had been placed on record. An application was moved by the petitioner seeking modification of the order which was placed before the Bench which had passed the order on 22.12.2015 which after noticing the facts was dismissed stating that there were no grounds for modification.

Counsel for the petitioner contends that the petitioner was unable to pay the amount as he had lost the job and had no money to pay and he had joined the investigation and he was ready to face the trial.

The Co-ordinate Bench before whom the application for modification was filed had noted the following:-

“The instant application for modification has been filed after seven months and it is stated by the applicant that he does not want to grant a divorce. It may be noticed that the settlement which had been arrived at on 22.12.2015 was not a sudden agreement.

“-----

-----”

This Court asked the applicant, who is present in person before this Court, whether his wife and daughter have now living separately for the last two years and whether he has paid any amount to them for their maintenance ? He has accepted the fact that he has not paid any amount to them. He has also stated that he is not in a position to make any payment even now.”

On 18.12.2015, the petitioner had stated that he was keen to rehabilitate the marriage but the complainant had stated that it was not possible but she was ready for a settlement if the petitioner made any arrangements for their minor daughter who was just two years old. The Co-ordinate Bench had adjourned the case to 22.12.2015. However, the parties had willingly agreed to part ways on payment of Rs. 25 lacs and the payment was staggered and it was to be paid in about a year.

The petitioner was to approach the counsel for the complainant by the end of January but failed to do so. After the expiry of that period, he approached the Supreme Court with a prayer that he was not keen to get a divorce and he had never agreed to end the matrimonial relationship which was totally in contradiction to what he had stated before the Court. In order to bind the parties so that they did not withdraw from the settlement, the Co-ordinate Bench had observed that it would be a ground for rejection if any payment was delayed. The petitioner defaulted in the beginning. He did not approach the counsel for the complainant nor handed over the sum of Rs. 10.00 lacs. Before this Court the statement was that he did not have the money as he had lost his job. The petitioner had resigned much earlier, he knew his financial condition on the date the statement was made in the Court. He had no intention to settle and was just trying to delay the matter.

The complainant side has placed on record an affidavit executed by Iqbal Singh Dhindsa who was the councillor of the area to show that the petitioner had approached him for reduction of the settlement amount. The petitioner had taken up false plea that he wanted to rehabilitate the marriage. He had made no efforts for rehabilitation nor had sent any amount for his daughter for the last two years. He even went to the extent of saying that he had never agreed to end his matrimonial relationship which is just short of saying that he did not make any statement for settlement before the Co-ordinate Bench. It was made clear that if there was any default of any payment then it would be a ground for dismissal of the petition. The petitioner is not entitled to the discretionary relief of anticipatory bail.

The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

December 02, 2016
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No