

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-44266-2016
Date of Decision: 07.11.2017**

Vikas Sharma

...Petitioner

Versus

State of Haryana & another

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. P. P. Chahar, DAG, Haryana.

Mr. Aman Pal, Advocate
for respondent No. 2/complainant.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioner in the event of arrest in FIR No. 243 dated 13.11.2016, under Sections 323, 34, 406, 498-A and 506 of the Indian Penal Code, registered at Women Police Station, Gurugram.

The petitioner herein was named in the aforesaid FIR by Ms. Shilpi Sharma, respondent No. 2/complainant herein, alleging cruelty, beatings with further allegations of demand of dowry etc.

During the pendency of the instant petition, the petitioner had made an offer to give a flat of one room on rent to his wife and minor child along with Rs. 25,000/- per month as maintenance and further he would deposit a sum of Rs. 11 Lakh in two equal installments into her bank

account. Pursuant to the order dated 21.12.2016, an amount of Rs. 11 Lakh was deposited into the bank account of the wife, the complainant. A statement was made on 06.09.2017 that the petitioner would be ready to pay a sum of Rs. 10,000/- per month towards the lease amount of the flat and that he would also continue to make a payment of Rs. 25,000/- per month as maintenance. Time was also sought to make good the arrears of rent.

Counsel for the petitioner urges that there has been substantial compliance of the orders so passed by this Court insofar as Rs. 25,000/- per month has been paid as maintenance to the wife and minor child as well as the rent @ Rs. 10,000/- per month has been paid upto date to the complainant. It is argued that apart from that, a sum of Rs. 11 Lakh has been paid which should be taken into account at the time of proceedings which have been initiated under Section 125 Cr.P.C. and in case the parties arrived at a permanent settlement, this amount should be taken into consideration therein.

Per contra, though, counsel for the complainant-wife does not dispute that the arrears of rent upto date have been paid as well as the maintenance that has been assessed by this Court @ Rs. 25,000/- per month, however, he disputes that the sum of Rs. 11 Lakh, that has been received by the complainant, is towards maintenance/permanent alimony/dowry articles. In fact, it is urged that the sum of Rs. 11 Lakh has been received on account of car that had been illegally retained by the petitioner.

I have heard counsel for the parties and in view of the fact that the petitioner is not required for custodial interrogation and has joined the investigation, the interim order dated 12.12.2016, staying the arrest of the petitioner, is made absolute subject to the conditions laid down in Section

438, Sub Section (2) Clauses (i)(ii) and (iii) of the Code of Criminal Procedure.

So far as the adjustment of Rs. 11 Lakh is concerned, it is not for this Court to direct the adjustment of the said amount towards the final maintenance. However, it is made clear that the maintenance that has been paid @ Rs. 25,000/- per month in these proceedings would be subject to any decision arrived at by the JMJC in the proceedings initiated under Section 125 Cr.P.C, which is to be decided on its own merits.

At this stage, a prayer is made by the counsel for the complainant that the police was investigating an incident, which took place in Pune in October, 2015, however, the investigation was stayed on account of the possibility of the settlement being explored between the parties. He prays that since there is no compromise between the parties, a direction be issued to the respondent-State to complete the said investigation.

In view of the fact that there is no compromise between the parties, let the law take its own course and any investigation left incomplete be completed.

Petition is disposed of.

However, in case, there is any default in payment of the maintenance or rent, the complainant-wife is at liberty to move an appropriate application for recalling of the instant order.

07.11.2017

Mansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No