IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.8975 of 2017
Date of Decision-16.05.2017

Rajiv Denial ... Petitioner

Versus

State of Punjab ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.

Mr. Rimplejeet Kaur, AAG, Punjab.

Mr. Tejinder Pal Singh, Advocate for the complainant.

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RAJ MOHAN SINGH, J.

[1]. Petitioner seeks anticipatory bail in case bearing FIR No.5 dated 27.01.2017 registered under Section 420 IPC at Police Station NRI, District Ludhiana.

[2]. Complaint was received from Chamandeep Kaur daughter of Gurmeet Singh in Police Station through post for registration of the case. Complainant sought action against the petitioner and others for the offence of cheating and usurping lacs of rupees from the complainant. Complainant alleged that she belonged to an ordinary family and was staying in the house of her maternal grandmother since 2001. She has three sisters and one brother who is handicapped. Father of the complainant is a small scale farmer. The complainant shifted to the house of

maternal grandmother for want of educational facilities in the village. She was in search of part time job owing to paucity of funds with her. She started working in the shop of the petitioner. In 2007, she was employed as a computer operator and lecturer in the CMC Hospital. The complainant kept on doing part time job in the shop of the petitioner as he did not want her to work somewhere else. She was introduced with the family of the petitioner, relatives and friends.

[3]. Complainant further alleged that the petitioner assured her that he had obtained divorce from his wife and started showing dreams to the complainant. Petitioner took undue benefit of the circumstances of the complainant and gained confidence of the complainant. Complainant also alleged that the petitioner was successful in establishing physical relationship with her and petitioner also clicked some objectionable photographs against her wishes. Thereafter, the petitioner started blackmailing the complainant and also extending threats of eliminating her parents. Later on, the complainant came to know that petitioner has not given divorce to his earlier wife and assured the complainant that he would get the divorce in near future. From 2007 to 2011, petitioner exploited the complainant physically and never lived up to his words. When the complainant refused to continue with such relationship, petitioner started giving threats of killing and blackmailing the complainant. In the year 2010, the complainant

decided to get separated and told the petitioner that in case he does not obtain divorce, she will not stay with him. Petitioner showed some legal documents to the complainant in which it was written that he was staying separately from his wife since 10.06.2010. The complainant trusted him. The complainant kept on working on the shop of the petitioner and she was planning to do a job outside India because the petitioner used to threaten her and he would not allow her to work elsewhere in India. In December 2010, petitioner showed a document that he had filed a divorce petition against his wife Shruti. Petitioner also promised that he would start staying with the complainant in abroad. Petitioner demanded some money from the complainant for giving to his wife. He promised to return the amount by doing job.

[4]. Complainant further alleged that prior to her going to foreign country for job, the accused obtained all the authorities of bank of the complainant in his name and thereafter, started asking the complainant for her salary for obtaining divorce from his wife Shruti. Since the complainant had started considering the petitioner as her husband, therefore, she gave Rs.81,100/- to the petitioner from her first salary on 21.09.2011. Thereafter, an amount of Rs.39,100/- was given to him. Later on, an amount of Rs.51,660 was given on 04.11.2011, an amount of Rs.69,920/- was given on 24.11.2011, an amount of Rs.69,300/- was given on 21.12.2011 and an amount of Rs.67,763/- was given on

15.01.2012 in the first vacation of the complainant. When the complainant came to India, she was taken from the airport by the petitioner by informing her that he was living separately from his wife and he was not staying with his parents. Petitioner promised that he will get divorce from his wife and will apply for going to Canada according to his plan. Petitioner demanded money from the complainant for applying documents for Canada and the complainant alleged that she paid an amount of Rs.64,830/- on 08.02.2012, an amount of Rs.40,906/- on 19.03.2012, an amount of Rs.69,300/- on 17.04.2012, an amount of Rs.1,42,230/- on 16.05.2012, an amount of Rs.1,75,266/- on 08.06.2012, an amount of Rs.44,050/- on 13.06.2012 and an amount of Rs.68,500/- on 08.10.2012. For purchase of a car, petitioner got a loan sanctioned in a sum of Rs.18,75,000/- from the employer of the complainant. The complainant sent an amount of Rs.1,80,000/- on 17.10.2012, an amount of Rs.1,80,000/- on 22.10.2012, an amount of Rs.1,80,000 on 23.10.2012, an amount of Rs.2,13,805/- and an amount of Rs.1,12,000/- on 04.11.2012. On 03.06.2013, complainant sent an amount of Rs.1,03,544/- to the petitioner separately. Complainant came to India during 2011 to 2013 and gave total amount of Rs.19,53,274/- to the petitioner. Petitioner came to know that the complainant has sent the remaining amount of loan to her parents, then he asked her to give all the money to him. The accused/petitioner kept on giving assurances for going to

Canada very soon and he will perform official marriage with the complainant. Petitioner also exercised the authority of the complainant in the bank accounts and withdrew the amount without the consent of the complainant. An amount of Rs.20,000/- withdrew on 27.11.2011, an amount of Rs.2,00,000/- withdrew on 12.11.2012, an amount of Rs.40,000/- each withdrew on 13.03.2013 and 23.05.2013, an amount of Rs.92,403/- withdrew on 25.05.2013, an amount of Rs.35,000/- withdrew on 30.06.2013, an amount of Rs.50,000/- withdrew on 07.08.2013, an amount of Rs.20,000/- withdrew on 16.08.2013 and an amount of Rs.20,000/- withdrew on 25.11.2013. In this way, the complainant alleged that the accused/petitioner withdrew an amount of Rs.5,26,403/-.

[5]. Petitioner told the complainant that he has obtained divorce on 18.05.2013 from his earlier wife and now he does not want to stay with her or with his parents and wants to perform marriage with the complainant. When the complainant proposed to invite her parents and other relatives in the marriage, then the petitioner said that in case they do not agree, he will be in problem as he is Christian by religion and he agreed to get married with the complainant without the consent of her parents and agreed to change the religion after the marriage and will perform the marriage as per Sikh rites in the presence of all the family and he will not force the complainant to follow Christian religion. The change of religion would only be for legal purposes.

In this way, marriage was solemnized on 02.08.2013 in Delhi Church. Thereafter, the complainant asked the petitioner to visit her parents and family members, then the petitioner told the complainant that if they informed them, then they will not allow to go abroad and the entire plan will be spoiled as grant of visa was in offing at that time. On 15.08.2013, the complainant went back to her job. Thereafter, the complainant sent an amount of Rs.63,860/- on 13.10.2013, an amount of Rs.49,100/- on 01.12.2013, an amount of Rs.2,42,410/- on 16.12.2013, an amount of Rs.48,330/- on 15.01.2014, an amount of Rs.32,730/- on 04.02.2014, an amount of Rs.32,462/- on 17.02.2014, an amount of Rs.32,383/- on 03.03.2014, an amount of Rs.39,270/- on 03.04.2014, an amount of Rs.39,712/- on 28.04.2014, an amount of Rs.38,750/- on 01.06.2014 and an amount of Rs.1,71,273 on 10.06.2014, totaling Rs.7,90,280/-.

[6]. By citing numerous instances of advancing the amount to the petitioner, the complainant alleged that the petitioner has cheated the complainant in many ways and total amount of Rs.32,69,957/- has been usurped. Complainant also alleged that the taking of divorce from the earlier wife was a farce inasmuch as that after the said divorce the petitioner has adopted a child jointly in his name and in the name of his earlier wife Shruti.

[7]. On the other hand, learned counsel for the petitioner contended that it was the petitioner who on humanitarian ground agreed to help the complainant financially and ultimately developed liking towards her as the wife of the petitioner had a primary infertility and therefore, she had given consent to the petitioner to contract another marriage for a child. Even the complainant had met the wife of the petitioner on number of occasions and was aware of the fact. Petitioner purchased one Honda Activa for the complainant and also helped her in getting job in CMC Hospital (College of Nursing) as a computer operator in the year 2007. The complainant expressed her desire to go abroad, where her maternal aunt was employed. Since she was unable to execute her plan owing to paucity of funds, therefore, the petitioner came to help her and offered much needed financial help. The complainant resigned from Christen Medical College. Petitioner obtained a loan of Rs.1,50,000/- from HDB Financial Services and thereafter, paid the installments. The said loan was utilized towards the complainant. Thereafter, on number of occasions, the petitioner and the complainant visited Delhi and they used to stay in some hotel as husband and wife. Even both visited Agra on 05.08.2011 and came back on 07.08.2011 and stayed in Jaypee Palace Hotel.

[8]. Learned counsel further submitted that an amount of Rs.5,00,000/- was taken from the petitioner inclusive of Rs.1,50,000/- which was taken by the petitioner as loan and

Rs.1,00,000/- from his father as loan, therefore much needed financial help was provided to the complainant. Thereafter, the complainant again visited Delhi on 17.01.2012 and stayed with the petitioner. Learned counsel also submitted that the complainant also visited Delhi from 26.01.2012 to 27.01.2012 and stayed with the petitioner in Hotel Parklan Retreat. From 14.06.2012 to 15.06.2012, the petitioner and the complainant stayed in Hotel Roya Plaza, New Delhi. Again from 31.07.2012 to 01.08.2012, they stayed in Hotel Royal Plaza, New Delhi. Then they visited Jammu and Kashmir and stayed in Srinagar Deluxe House Board from 01.08.2012 to 02.08.2012. Thereafter, they went to Pehelgam and stayed in Hotel Baisaran from 02.08.2012 to 04.08.2012. Thereafter, they came back to Srinagar and stayed in Hotel City Forest from 04.08.2012 to 05.08.2012.

[9]. By referring to numerous documents, learned counsel has projected that the petitioner and the complainant have visited number of cities in India even during currency of the employment of the complainant in abroad. Petitioner got divorce from his earlier wife on 18.05.2013 by order of the Court. Complainant came to India from Saudi Arabia and both stayed in Hotel Royal Plaza, New Delhi from 06.06.2013 to 07.06.2013. Thereafter, both went to Goa and stayed there from 07.06.2013 to 10.06.2013. Both were married to each other and the complainant got baptized and turned Christian on 01.08.2013.

Learned counsel with reference to numerous photographs on records submitted that the petitioner has solemnized marriage with the complainant after taking lawful divorce from his earlier wife and the taking of a child in adoption in the name of petitioner and his wife was on account of settlement between them under which the petitioner was bound to take a child in adoption so that the same can be given to his divorced wife. The aforesaid instance cannot be taken to be an act of any cheating, particularly when the marriage between the petitioner and the complainant was solemnized after taking lawful divorce from his earlier wife namely Shruti.

[10]. Having heard the arguments of both the sides, it is found that there are allegations and counter allegations of paying amount to each other. These allegations can only be verified by way of proper investigation and the same are based on documents. Since interim order has already been granted to the petitioner, therefore, it would be just and expedient to direct the petitioner to join the proceedings in order to facilitate the Investigating Agency to collect material.

[11]. Accordingly, petitioner is directed to join the proceedings as and when called upon to do so by the Investigating Agency. However, the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. In the event of non-cooperation by the petitioner, Investigating Agency

would be well within its right to seek cancellation of anticipatory bail.

[12]. Petition stands disposed of.

(RAJ MOHAN SINGH)
JUDGE

16.05.2017
Prince

Whether reasoned/speaking Yes/No

Whether reportable Yes/No