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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 903/2016
SUDHANSHU KUMAR SULTANIA Petitioner

Through: Petitioner in person.

versus

SMILEE DATTATTREYA PANCHAL @ MADHU PANCHAL &
ORS Respondents

Through: Mr. Navneet Kumar and Mr. Gobind
Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **17.08.2017**

Petitioner claims to be husband of respondent no.1. Respondent nos. 3 and 5 are parents of respondent no.1. Respondent no.2 is husband of respondent no.1. Petitioner claims that marriage between the respondent no. 1 and 2 is not valid. Respondent no.1 was already married to petitioner. Respondent no. 4 is cousin of respondent no.2. Petitioner filed a complaint under Section 200 of the Code of Criminal Procedure, 1907 (Cr.P.C.) before the learned Metropolitan Magistrate, Delhi praying therein that respondents be summoned and punished for the offence punishable under Sections 493/494/495/497/498/506/120B IPC. Vide order dated 4th July, 2015, learned Metropolitan Magistrate took a view that a prima facie case regarding commission of offence punishable under Sections 439/494/506/34

IPC was made out against the respondents. Accordingly, respondents were summoned in Court. Respondents appeared in Court on 5th December, 2015 along with their counsel and moved bail application which was allowed and respondents were released on bail, subject to their furnishing a personal bond in the sum of ₹20,000/- with one surety in the like amount.

Aggrieved by the order of the Metropolitan Magistrate, whereby respondents were enlarged on bail, petitioner preferred an application under Section 439(2) Cr.P.C. before the learned Additional Sessions Judge for cancellation of bail. It was alleged that petitioner was not heard before enlarging the respondents on bail, thus, proviso 4 of Section 437 Cr.P.C. was violated. Learned Additional Session Judge has noted that the petitioner was present in Court, when the respondents were ordered to be released on bail. It was also contended by the petitioner before the Additional Sessions Judge that his wife, that is, respondent no.1 and his friend, that is, respondent no.2 had developed intimacy and they were living in adultery; further that accused persons (respondents) had been threatening the petitioner, therefore, bail be cancelled. Learned Additional Session Judge has noted that no report was lodged with the DCP/SHO concerned regarding the alleged threats. It is further noted that mere allegations in this regard

were not sufficient to cancel the bail.

During the course of hearing, petitioner has contended that opportunity of hearing was not afforded to him, therefore, proviso 4 of Section 437 Cr.P.C. was violated, therefore, bail ought to have been cancelled by the learned Additional Session Judge. He has also placed reliance on the judgments, namely, Subodh Kumar Yadvu vs. State of Bihar & Anr.(MANU/SC/1207/2009), Kalyan Chandra Sarkar vs. Rajesh Ranjan (MANU/SC/0214/2004), Bijendra @ Virendra S/o Mukandi vs. State of U.P. & Manoj Kumar(2006 CriLJ2253), Pooja Bhatia vs. Vishnu Narain Shivpuri & Anr.(MANU/SC/0206/2014), Prahlad Singh Bhati vs. NCT of Delhi & Anr.(MANU/SC/0193/2001) And Rizwan Akbar Hussain Syed vs. Mehmood Hussain & Anr(MANU/SC/7684/2007). He further submits that learned Metropolitan Magistrate has not given any reasons while granting bail, inasmuch as, he and other witnesses were threatened by the respondents, therefore, also learned Additional Sessions Judge ought to have cancelled the bail of respondents.

I do not find any force in the contentions raised by the petitioner. The judgments relied upon by the petitioner are in the context of different facts and are of no help to him. It is not the case that bail order was passed in the

absence of the petitioner. A perusal of order passed by the learned Metropolitan Magistrate makes it clear that petitioner was very much present and order was passed in his presence. Learned Additional Sessions Judge has taken note of all the facts and has held that no case was made out for cancellation of bail. Bald allegations of threat would not be sufficient to cancel the bail, more so when, admittedly petitioner did not approach the police official nor made any written complaint in the concerned police station.

For the foregoing reason, I do not find any justification to interfere with the impugned order, in exercise of inherent jurisdiction of this court under Section 482 Cr.P.C. Petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

AUGUST 17, 2017

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