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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 3726/2016

NISHA GUPTA

..... Petitioner

Represented by: Mr. R.N. Dubey, Advocate.

versus

STATE & ANR

..... Respondents

Represented by: Mr. Hirein Sharma, APP for
the State with SI Ashwani
Kumar, PS Jyoti Nagar.
Mr. Digvijay, Advocate for
respondent No.2 with
respondent No.2 in person.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

09.02.2017

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1. By the present petition, the petitioner seeks cancellation of the bail granted to the respondent No.2 vide order dated 5th February, 2013. The main grievances on which the petitioner seeks cancellation of bail are that despite the fact that the respondent No.2 at the time of seeking bail stated that he would try his best to settle the matter, no settlement was arrived at between the parties.

2. The order dated 5th February, 2013 granting bail to the petitioner by the learned Metropolitan Magistrate reads as under:

"05.02.2013

Pr. Sh. Ravindra Kumar. Ld. Addl. P.P. for the State.

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SI Dinesh Kumar is present to assist the ld. Addl. PP for the State.

Sh. S.M. Zulfiqar Alam, Advocate, for the applicant/accused.

Applicant Amit Gupta today appeared in person as called from judicial custody.

He is in custody since 30.01.2013. Bail is being opposed, when counsel Sh. R.N. Dubey appearing for the complainant girl submitted that besides acts of cruelty and harassment committed to the complainant girl on account of demand of dowry and for one such instance even MLC of the girl had been prepared on 12.06.2012 and that accused had never taken serious or sincere initiative to settle and compromise the dispute, and that applicant/accused had filed a divorce petitioner levelling serious allegations on the character of the girl. Applicant present in JC submitted that he was still prepare to take up any settlement talk with complainant girl and to bring her back in matrimonial home. It came to be argued and submitted that interim bail could be considered for applicant to see and observe his conduct to what extent he was sincere to take up settlement/compromise talk.

I have considered all these arguments and contentions.

Counsel for the applicant submitted that he will try his best to council the applicant and his family if there could be some settlement/compromise.

Bail is allowed to the applicant/accused subject to his furnishing a bail bond in the sum of ₹15,000/- with one surety of the like amount to the satisfaction of the ld. MM concerned."

3. An application for cancellation of bail was filed by the petitioner

before the learned Additional Sessions Judge under Section 439 (2) Cr.P.C. on the same grounds. Considering the rival contentions of the two parties, the learned Additional Sessions Judge held that the bail granted could be cancelled only in the circumstances when the order in favour of the accused granting bail is being misused or it would be in the interest of justice to cancel the bail. It was further held that respondent No.2 was granted bail after being in judicial custody for five days, keeping in view the facts and circumstances of the case and merely because settlement/compromise could not be proceeded, it cannot be the ground for cancellation of the bail granted to the respondent No.2.

4. As noted above, undoubtedly there was an offer from the side of the respondent No.2 that an endeavour will be made to settle the matter.

5. It is not disputed that the parties were referred to the Mediation Centre, Tis Hazari Court where parties appeared however, no settlement could be arrived at between them. Merely because settlement could not be arrived at between the parties, no ground to cancel the bail is made out as rightly held by the learned Additional Sessions Judge vide the impugned order. I find no merit in the present petition.

6. Petition is dismissed.

MUKTA GUPTA, J.

FEBRUARY 09, 2017/‘vn’