

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10840 of 2017(O&M)

Date of Decision: 22.02.2018

Paramdeep Gherra

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.T.S.Sangha, Sr. Advocate
with Mr. Narinder Singh, Advocate
for the petitioner.

Ms. Seena Mand, DAG, Punjab.

Mr. Sanjam Malhotra, Advocate
for respondent no.2.

LISA GILL, J (Oral).

Petitioner seeks the concession of anticipatory bail in FIR No.0012 dated 09.03.2017, under Sections 406, 498-A, 323 IPC, registered at Police Station Women, District Police Commissionerate Jalandhar.

As per the allegations in the FIR registered on the complaint of the petitioner's wife, she was subjected to ill-treatment and harassment at the hands of her husband and in-laws. Marriage took place between the petitioner and the complainant on 31.01.2014. It is averred that due to insufficient dowry, she was subjected to ill-treatment, mental and physical cruelty. The complainant revealed that she was a double MA in Fine Arts,

History as well as having taken her B.Ed degree and a one year diploma in Commercial Arts apart from being a successful painter and a winner of painting competitions on the national level. A child was born out of the wedlock on 02.05.2015. At the time of marriage, no demand of dowry was raised, but it was stated by the in-laws that the marriage should be arranged in a good manner. However, after marriage various demands of dowry were raised. It is alleged that the petitioner and his family had a Volkswagen Vento car and it was demanded that a Tata Safari should be given in dowry. It is alleged that the petitioner and his family did not really accept an educated daughter-in-law but wanted a huge dowry due to which she was subjected to ill-treatment.

Learned senior counsel for the petitioner argues that the present FIR has been registered due to temperamental differences between the parties. It is submitted that the petitioner was employed as a Clerk on compassionate basis when his father was murdered in the year 1991. The petitioner used to live alongwith his mother and younger brother, who is also married. The complainant is a highly educated person and employed as a lecturer in G.N.A. College, Bhogpur. It is submitted that she could not adjust in the matrimonial home. Even, a perusal of the FIR reveals that in her parental home, they did not eat non vegetarian food etc., whereas the same was prevalent in the matrimonial home. It is further submitted that the complainant, an extremely emotional and sensitive person was not able to get along with the petitioner's mother, who is a widow and the complainant was prone to frequent outbursts using abusive language towards her widow mother-in-law. The complainant herself left the matrimonial home firstly in

September 2016 and thereafter on 18.10.2016. Matter was patched up with the intervention of the maternal aunt of the complainant-Jasbir Kaur in September 2016 who assured that such like behaviour would not be repeated. However, the situation did not improve. The petitioner ultimately filed a petition under Section 13 of the Hindu Marriage Act, 1955, prior to the registration of the FIR, though after the submission of the complainant on the basis of which this FIR has been registered. Reference is also made to a daily diary maintained by the complainant excerpts of which are mentioned in para no.7 of the petition to submit that the complainant had herself noted the deep affection of the petitioner for her. It is argued that no specific allegations have been raised against the petitioner. Moreover, all the dowry articles have been returned. The petitioner has joined investigation and he undertakes to face the proceedings. The petitioner further undertakes to regularly pay the maintenance which has been fixed in the proceedings under Section 13 of the Hindu Marriage Act, 1955. It is thus prayed that this petition be allowed.

Learned counsel for the complainant has opposed this petition while submitting that specific allegations have been raised in this FIR against the petitioner. The complainant was turned out of the matrimonial home alongwith the minor child. She seeks rehabilitation in the matrimonial home whereas the petitioner has filed a petition seeking divorce. The excerpts as mentioned in para 7 of the petition are not denied though it is submitted that the same was only an attempt by the complainant to bring in some positivity in a completely negative situation and was only a tool for dealing with environment and does not reflect the true picture.

It is noticed that mediation between the parties has failed as the complainant seeks only resumption of matrimonial ties while the petitioner stated that rapprochement would not be possible at this stage though he offered for a full and final settlement on reasonable terms. In the facts and circumstances of the case, no useful purpose shall be served by incarcerating the petitioner.

Learned counsel for the State, on instructions from ASI Palwinder Singh, verifies that the petitioner has joined investigation. The entire dowry articles have been recovered, though, learned counsel for the complainant submits that one diamond ring alongwith certain other items of jewellery, are yet to be recovered.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances of the case, but without commenting upon or expressing any opinion on the merits of the case, this petition is allowed. Consequently, order dated 30.03.2017, is made absolute.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

22.02.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.