

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

Crl. Misc. M-11706 of 2018 (O&M)
Date of Decision: April 18, 2018

Shanta Rani

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Pawan Kumar, Senior Advocate with
Mr. Rozer Kumar Aggarwal, Advocate
for the petitioner.

Mr. A.S. Sandhu, Addl. AG Punjab.

Mr. Pardhuman Garg, Advocate
for respondent No.2.

JAISHREE THAKUR, J. (Oral)

1. This is a petition that has been filed under Section 439(2) of Cr.P.C. seeking cancellation of bail order dated 24.11.2017 passed in Criminal Misc. M-34330 of 2017 titled as “Ravi Garg vs. State of Punjab” in case FIR No.164 dated 25.10.2016, under Sections 304-B, 34, 120-B of Indian Penal Code, registered at Police Station City Samana, District Patiala, Punjab, however, Sections 304-B, 34, 120-B of Indian Penal Code have been deleted while filing the challan under Section 306 of Indian Penal Code, but the trial court framed the charges under Sections 498-A, 304-B of Indian Penal Code and alternative Section 302 of Indian Penal Code vide

order dated 26.05.2017.

2. Mr. Pawan Kumar, learned Senior counsel for the petitioner, assisted by Mr. Rozer Kumar Aggarwal, Advocate submits that by an order dated 26.05.2017, the trial court had framed the charges under Section 498-A, 304-B, 302 of Indian Penal Code, however, respondent No.2-accused got the regular bail from this court under Section 306 of Indian Penal Code by the impugned order dated 24.11.2017, while stating that at the time of filing the challan offences under Sections 304-B, 34, 120-B of Indian Penal Code have been deleted. It is argued that respondent No.2-accused never brought to the notice of this court that charges have been framed by the trial court under Sections 498-A, 304-B, 302 of Indian Penal Code, as such, bail granted only under Section 306 of Indian Penal Code and not under Sections 304-B, 498-A, 302 of Indian Penal Code is liable to be cancelled. It is contended that after the grant of bail by this court, respondent No.2-accused is pressurizing the petitioner to enter into compromise and resile from her statement. It is submitted that since respondent No.2-accused had concealed the material facts from this court, while obtaining the impugned bail order dated 24.11.2017, the same is required to be cancelled.

3. Reply filed by the respondent-State by way of affidavit of Mr. Rajwinder Singh, PPS, Deputy Superintendent of Police, Circle Samana, District Patiala is taken on record, in which it is stated that the trial court framed charges against respondent No.2-accused under Sections 498-A, 304-B of Indian Penal Code and in the alternative under Section 302 of Indian Penal Code.

4. Learned counsel appearing on behalf of respondent No.2-

accused submits that initially the report was filed under Section 306 of Indian Penal Code, however, the trial court framed the charges under Sections 498-A, 304-B of Indian Penal Code and in the alternative under Section 302 of Indian Penal Code and inadvertently this fact could not brought to the notice of this court.

5. I have heard learned counsel for the parties, apart from perusing the record.

6. A perusal of the impugned order dated 24.11.2017 passed by this court in Criminal Misc. M-34330 of 2017 granting regular bail to respondent No.2-accused under Section 439 Cr.P.C. reveals that the said petition was filed seeking regular bail in FIR No.164 dated 25.10.2016, under Sections 304-B, 34, 120-B of Indian Penal Code, registered at Police Station Samana, District Patiala, however stating that Sections 304-B, 34, 120-B of Indian Penal Code have been deleted while filing the challan and Section 306 of Indian Penal Code has been added.

7. A perusal of the charge-sheet framed by the trial court on 26.05.2017 reveals that respondent No.2-Ravi Garg was charge-sheeted under Sections 498-A, 304-B of Indian Penal Code or in the alternative under Section 302 of Indian Penal Code. Further, the bail application of respondent No.2-Ravi Garg was also dismissed by the trial court on 26.05.2017, against the dismissal of which a petition bearing Criminal Misc. M-34330 of 2017 came to be filed before this court, in which the impugned order dated 24.11.2017 was passed by this court. It cannot be said that the accused was not aware of the charges, since he claimed his innocence and wanted bail. It is expected of any person claiming relief to be fair to the

court and concealment of material facts would not entitle him to any relief. Section 302 of Indian Penal Code is a serious offence and cannot be ignored against him.

8. From all the above facts, it is abundantly clear that respondent No.2-Ravi Garg had concealed the material facts from this court, while obtaining the impugned bail order dated 24.11.2017. In this view of the matter, this court is inclined to recall the said order passed by this court. Accordingly, the impugned order dated 24.11.2017 passed in Criminal Misc. M-34330 of 2017 is hereby recalled.

9. The petition in hand stands allowed accordingly.

April 18, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No