

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-15094 of 2016 (O&M)
Date of decision : November 16, 2018

Vijay Gupta

....Petitioner

versus

State of Punjab and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. AS Ahluwalia, Advocate, for the petitioner

Mr. Dhruv Dayal, Sr. DAG, Punjab for the State

Mr. Arif Qureshi, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

This order shall dispose of anticipatory bail filed under Section 438 of the Code of Criminal Procedure in case bearing FIR No. 20 dated 23.4.2016 under Sections 498A/506 IPC and subsequently added Section 406 IPC on 9.6.2016 and Sections 420,465,467,468,471 IPC on 2.11.2016, pertaining to Police Station Women, Bathinda, got lodged by wife complainant Rekha Jindal.

The precise allegations brought to the notice of the Court during the course of submissions are that the present case was got registered

on the complaint of wife Rekha Jindal wherein she alleged that she was married on 25.4.2012 with petitioner accused Vijay Gupta. It is alleged that at the time of marriage huge gold ornaments and other costly articles were given and her Ishtridhan was handed over to the accused who refused to return back the same and rather she was subjected to harassment and cruelty for demand of more dowry leading to the registration of the present case.

Mr. AS Ahluwalia, counsel for the petitioner has submitted that the present FIR is a counter blast to the allegations of the husband whereby he has sought divorce from the wife and that the allegations of physical abuse and demand of dowry were fabricated with an ulterior motive and neither any specific allegation of cruelty much less specific entrustment of articles of Ishtridhan and criminal breach of trust are made out.

On behalf of the State assisted by counsel for the complainant, the same is sought to be opposed on the grounds that the petitioner happens to be the husband and principal accused with whom after the marriage the complainant was residing and invariably the articles of Ishtridhan were lying with him in his possession and having usurped the same and who managed to fabricate certain documents necessitates his custodial interrogation disentitling him to any relief.

Appreciating the arguments put forth by the two sides, it is not in any manner put to dispute that the marriage between the couple took place on 25.4.2012 and the FIR has been lodged on 23.4.2016. There are

specific allegations of handing over of Ishtridhan to the husband, his demand for more dowry articles as well as physical abuse and mental cruelty. Though as is evident that the husband has sought to set off accusation of having committed criminal offence by invoking the complaint against the wife and thus, apparently to thwart the applicability of having misappropriated the articles of Ishtridhan. Recovery of the articles of Ishtridhan as per the submissions of the learned State counsel still needs to be made together with the offences for which the petitioner has been hauled up necessitates his custodial interrogation. Provisions of Section 438 Cr.P.C. are to be sparingly used especially it is not a deserving case for sympathetic consideration of such a relief for the petitioner. The petition being hopelessly without merits stands dismissed.

November 16, 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No