

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

CRM-M No. 28586-2017 (O&M)

Date of Decision: 03.04.2018

Vivek Kumar Choudhary and others..... Petitioners

Versus

State of Haryana and another..... Respondents

CORAM : Hon'ble Ms. Justice Lisa Gill

Present : Mr. Ajay Kalra, Advocate and
Mr. S.K. Sharma (Budhladawale), Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, AAG Haryana.

Mr. Ashwani Talwar, Advocate
for respondent No.2.

LISA GILL, J.(Oral)

The petitioners seek the concession of anticipatory bail in
FIR No. 29 dated 22.06.2017 under Sections 498A, 406, 506, 323, 377
IPC registered at Mahila Police Station Panchkula.

Petitioner No.1 is the husband, petitioner No.2 the father-in-
law and petitioner No.3 is the brother-in-law (Devar) of the complainant.
As per the allegations in the FIR, marriage between petitioner No.1 and
respondent No.2 was solemnized on 13.07.2016 at Rock Garden, Sector
1, Chandigarh. Two functions were earlier held at Gurugram (Haryana)
and Sahibabad in U.P. Petitioner No.1 was posted at Chennai, working
with Indian Oil Corporation. After marriage the complainant/respondent
No.2 stayed with petitioner No.1 at Chennai for about a month and

treatment and harassment at the hands of petitioner No.1 are raised in the FIR. It is alleged that a lot of expense was incurred at the marriage. A Hyundai Toyota Car as well as valuable jewellery was given at the time of marriage. However, the complainant was pressurized to demand her share in property from her parents. She was also asked to incur a loan of ₹ 20 lakhs for use of the petitioners. Allegations attracting the rigours of Section 377 IPC were raised as well. Petitioner No.1, it is stated, shifted to Delhi in April, 2017. It is further stated that when the complainant and petitioner No.1 were at the parental home of the complainant in February 2017, petitioner No.1 pressurized the complainant to speak to her parents regarding transfer of their house at Gurugram in her name. Allegations regarding the incident in Panchkula are also levelled in the FIR. Behaviour of the petitioners did not improve and ultimately the complainant was forced to leave the matrimonial home on 25.04.2017. On the basis of the said complaint formal FIR No.29 dated 22.06.2017 under Sections 498A, 406, 506, 323, 377 IPC was registered.

Learned counsel for the petitioners vehemently argues that all the petitioners are well settled in their professions. There were temperamental differences between the parties since the beginning of their marriage. When things did not seem to be improve at all, petitioner No.1 in desperation served a legal notice dated 11.05.2017 (Annexure P8) upon the complainant wherein he has also expressed the desire to go in for marriage counselling to save their marriage. However, reply dated 18.05.2017 was received by the petitioners. Ultimately a petition for

annulment of marriage or in the alternative divorce under the Hindu Marriage Act, 1955 was filed by petitioner No.1 on 30.05.2017. The present FIR was registered on 22.06.2017. It is contended that all the alleged incidents took place at Gurugram and the police at Panchkula has no jurisdiction to look into the matter. Moreover, there is no medical evidence or any other evidence on record to substantiate the allegations regarding commission of the offence punishable under Section 377 IPC. All the articles of dowry have been returned by the petitioners. All of them have joined investigation. They undertake to face the proceedings and not abuse the concession of anticipatory bail if granted.

In respect of petitioners No.2 and 3, it is submitted that the complainant never resided at the matrimonial home along with the said petitioners. All allegations against them are absolutely incorrect. 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 levelled against the petitioners. The complainant was subjected to ill-treatment and harassment right from the very beginning of the marriage. Her parents reside at Panchkula and specific details of the incident which took place at Panchkula have been given in the FIR itself. Therefore, it cannot be said that the present FIR has been wrongly registered at Panchkula. The conduct of petitioner No.1 it is submitted is to be deprecated with a special reference to the legal notice which was sent by him. It is contended that it appears to be a deliberate attempt to create evidence in the matter. All the dowry articles it is submitted have not been returned.

The ownership of the car in question, which though in possession of the complainant has not been transferred by petitioner No.1. It is submitted that the complainant has been a victim of matrimonial abuse.

Learned counsel for the State while referring to the status report dated 09.01.2018 submits that investigation of this case was transferred from the Women Police Station Panchkula to the State Crime Branch Haryana vide order dated 14.07.2017 by DGP, Haryana, on a representation by petitioner No.2. Thereafter, a Special Investigation Team was constituted to investigate the matter. It is further pointed out that offence punishable under Section 377 IPC was again added after receipt of opinion of the Medical Board on 22.09.2017. It is submitted that though some dowry articles have been recovered, few of the recoveries are yet to be effected.

Learned counsel for the petitioners submits that in order to display their *bona fides* the petitioners are willing to deposit a sum of ₹ 02 lakh by way of FDR in favour of the complainant without prejudice to their rights and subject to the outcome of the trial. Petitioner No.1 undertakes to take all requisite steps for transfer of ownership of the Hyundai Toyota car in question in favour of the complainant/respondent No.2 within one week from today.

Heard learned counsel for the parties at length.

Allegations and counter-allegations have been raised by both the parties. It is noticed that an effort was made for an amicable settlement of the dispute between the parties. However, mediation failed.

At one stage it was expressed that resumption of matrimonial ties would

not be possible. However, consensual amount for permanent settlement/alimony etc. could not be arrived at between the parties .

Learned counsel for the State, on instructions from ASI Sanjay Kumar, verifies that all the petitioners have joined investigation. There are no allegations 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 expressing any opinion on the merits of the case, it is considered just and expedient to allow this petition as incarceration of the petitioners shall not serve any useful purpose.

Consequently, in the event of arrest of the petitioners, they be released on bail to the satisfaction of the Arresting/investigating Officer. The petitioner shall join investigation as and when called upon to do so. Petitioners shall comply with the conditions stipulated in Section 438 (2) Cr.P.C.

Liberty is afforded to respondent No.2 to move an appropriate application in case any of the petitioners indulge in any kind of activity consisting of an infraction of the conditions of bail or make an attempt to threaten or intimidate the complainant.

(LISA GILL)
JUDGE

April 03, 2018
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Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No