IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

CRM-M No.320 of 2017
Date of Decision: March 8th, 2018

Mandeep Kaur

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Dr. Anmol Rattan Sidhu, Senior Advocate
with Mr. M.S. Saini, Advocate
for the petitioner.

Mr. Apoorv Garg, Deputy Advocate General, Haryana.

Mr. Randeep Singh Rai, Senior Advocate
with Mr. Amarpreet Kaur Sabharwal, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973, for grant of concession of anticipatory bail in FIR No.229 dated 13.07.2016, registered at Police Station Sector-5, District Panchkula, under Sections 406, 420, 467, 468, 471, 457, 380, 379 and 120-B of Indian Penal Code.

It is the contention of learned senior counsel for the petitioner that the allegations made in the FIR are all cooked up with an intention to harass and humiliate the petitioner as she wanted to take divorce from the son of complainant because of the maltreatment she had suffered at the hands of her husband Jatinder Jagat, who is the son of complainant-Sunita and a drug addict. He contends that out of the wedlock a daughter was born, who is staying in Pinegrove School, which is quite an expensive school. He contends that the allegations in the FIR that the petitioner has forged the signatures of the complainant and in connivance with the co-accused, grabbed ₹39,00,058/- and further committed theft of ₹82,000/-, gold weighing about 23/24 tolas, silver anklets, two silver coins belonging to the complainant and Alto Car bearing registration No.HR 03-172 by preparing duplicate key, are totally false. As a matter of fact, because of the matrimonial discord, petitioner did not want to continue with the matrimonial relationship with the son of the complainant and, therefore, wanted divorce by mutual consent, to which neither the complainant nor her son agreed to but to the surprise of the petitioner, the complainant advanced a sum of ₹39,00,000/- through RTGS for opening a Fixed Deposit in the name of the granddaughter and also returned some dowry articles. Faced with this situation, petitioner had no option but to file a petition on 12.05.2016 under Section 13 of the Hindu Marriage Act, 1955, for seeking a decree of divorce. Out of the amount of ₹39,00,058/-, ₹34,00,000/- were utilised for the purpose of preparing a Fixed Deposit for upbringing of the daughter of the petitioner and ₹4,00,000/- were paid by cheque towards the fee and other charges to Pinegrove School, where the daughter is studying. He, therefore, contends that the allegations against the petitioner are totally false and in any case, the petitioner has already joined investigation and, therefore, the interim order passed by this Court on 11.01.2017 be confirmed and the petitioner be granted bail.

On the other hand, learned counsel for the State as also learned senior counsel for the complainant have asserted that the petitioner has illegally transferred the amount from the account of the complainant without her consent and rather has forged her signatures while filling in the form for RTGS transfer into the account of the petitioner from that of the complainant.

Learned senior counsel for the complainant contends that it is not merely the handiwork of the petitioner but there are other also, who are co-accused involved in the said offence. On the complaint filed by the petitioner, the said complaint was referred to the Economic Offences Wing, Panchkula and thereafter, after the initial inquiry and on taking the opinion of the Deputy District Attorney, FIR was registered. During investigation, signatures of the petitioner and the complainant were obtained and sent to the Forensic Science Laboratory, Madhuban, Karnal, Haryana, for examination and on the basis of the report of the experts, it was concluded that the signatures of the complainant were forged. It is submitted that the offence has been committed by the petitioner as she is the beneficiary.

As a matter of fact, the petitioner has not come to the Court with clean hands and has failed to bring to the notice of the Court settlement/compromise dated 10.01.2017, where the petitioner had conceded the fact relating to illegal transfer of ₹39,00,058/- from the account of the complainant and had further stated that ₹4,00,000/- were paid to Pinegrove School for the fee, boarding and lodging of the daughter of the petitioner and the son of the complainant and it was assured that the amount of ₹34,00,000/- would be transferred to the account of the complainant. The said agreement was signed not only by the petitioner but her father Sulakhan Singh and mother Inderjit Kaur. Petitioner thereafter refused to honour the terms of the agreement and has till date, not returned the amount agreed to, apart from returning the other stolen articles. He has also pointed out that the petitioner is not cooperating with the investigation and, therefore, the prayer made in the petition be not accepted.

I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the pleadings and the documents on record.

As per the allegations against the petitioner, she had grabbed an amount of ₹39,00,058/- illegally by forging the signatures of the complainant as the signatures on the bank form has been found to be forged and not of the complainant. Serious allegations have been made with regard to having committed theft of about ₹82,000/-, 23/24 tolas of gold, silver *pajeb* (anklets) and coins which are said to have been removed from the almirah of the complainant.

The contention of the learned senior counsel for the petitioner that it was out of care and concern for the minor granddaughter that the complainant had transferred the amount of ₹39,00,058/- through RTGS for opening a Fixed Deposit in the name of the petitioner's daughter, cannot be accepted as the allegations of harassment, maltreatment and torture in the divorce petition are not only against the husband of the petitioner but also against the complainant, who is the mother-in-law. Under these circumstances, when the relations are so sore, as projected by her in the divorce petition and further it is not in dispute that the articles, which have been mentioned in the FIR, had been taken by the petitioner, which are said to have been voluntarily given to her, cannot be accepted when she had herself moved out of the matrimonial home.

It has been admitted by the counsel for the petitioner that the petitioner had entered into a compromise dated 10.01.2017 (Annexure P-1) and had also undertaken to return an amount of ₹34,00,000/- to the complainant. On the last date of hearing i.e. 27.02.2018 when the Court was not agreeing with the contention of learned senior counsel for the petitioner, he had sought time to seek instructions with regard to the payment of

₹34,00,000/- which admittedly was in account of the petitioner although now freezed but she did not give her consent for the transfer of the said amount.

Today also, despite a categoric question put by this Court, as to whether the petitioner would return the amount of ₹34,00,000/- which she admitted to return and is still lying in her account, the response of learned senior counsel for the petitioner is in the negative as he has categorically said that the petitioner is not ready to return the said amount.

The conduct of the petitioner, who admittedly has been unduly enriched because of the transfer of ₹39,00,058/- into her account and, thereafter, after having admitted the same to have been received, with the FSL report confirming that it was not transferred by the complainant, refusing to return the remaining amount of ₹34,00,000/-, speaks volumes about the involvement of the petitioner in the commission of the said offence and her intention.

The present petition, in these circumstances, stands dismissed.

Any observations made hereinabove shall have no bearing upon the merits/proceedings pending in the FIR in any manner.

March 8th, 2018 **(AUGUSTINE GEORGE MASIH)**
Puneet **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No