

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

Criminal Misc. No.M- 38942 of 2015(O&M)

Date of Decision: March 06 , 2018.

Jagat Ram Sharma and another

..... PETITIONER (s)

Versus

U.T. Chandigarh and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Akshay Bhan Senior Advocate with
Mr. Gurvinder Singh, Advocate and
Mr. Harparteek S.Sandhu, Advocate
for the petitioners.

Mr. J.S.Toor, APP, U.T.

Mr. O.P.Goyal, Senior Advocate with
Ms. Anshika Sharma, Advocate
for the complainant/respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioners in FIR No.9 dated 13.10.2015 under Sections 406/498A IPC, registered at Police Station Women, Chandigarh.

Petitioners are the parents-in-law of the complainant

As per allegations in the FIR, the complainant married the son of the petitioners on 05.10.2008 at Community Centre, Sector 19A, Chandigarh. It is

stated that at the time of marriage sufficient gifts items were given to all the accused persons i.e., the present petitioners, their son (husband of the complainant), married sister-in-law and brother-in-law (devar) of the complainant. The complainant's husband was projected to be settled permanently in Australia, working in a Multi-National Company, earning a handsome income. The complainant proceeded to Australia on 25.10.2008 after the marriage on 05.10.2008, but on arrival came to know that her husband was jobless, not earning anything. His services had been terminated. The petitioners' son declared to the complainant that the only purpose for marrying the complainant was that she would be able to earn a handsome amount in Australia as she was a qualified nurse. Various allegations of ill-treatment, harassment and victimization are raised against the petitioners' son while the couple was in Australia. Insofar as the present petitioners are concerned, it is mentioned in para 5 of the FIR that when the complainant came to India in the month of March, 2008 and stayed here for three months, her life was made miserable by the present petitioners. She was taunted for not bringing valuable items as per their demands and status. Thereafter, allegations have been raised against the petitioners that when the complainant was expecting a child, they insisted upon an abortion. Petitioner No.2 (mother-in-law), who had come to Australia did not help out the complainant during her pregnancy and was of no aid to her. The complainant was taunted by the accused for not bringing sufficient gifts on the birth of the child on 24.06.2013 in Australia.

It is alleged that on 27.11.2013 the complainant alongwith her husband and son came to India for two months. It is further alleged that the

complainant was thrown out of the matrimonial home in India on 16.12.2013. The complainant rejoined her husband in Australia thereafter. Complaints were made against the conduct of the petitioners' son by the complainant before the police authorities in Australia. It is alleged that the complainant's husband deserted the complainant and their child on 25.07.2014. The complainant alongwith the minor child came back to India on 19.01.2015. The present petitioners are alleged to have threatened the complainant to forcibly take away the minor child from her. The complainant, it is further stated, was not allowed to operate the locker, which is in the joint name of the complainant as well as the petitioners' son in the State Bank of India, Sector 17, NRI Branch, Chandigarh. On these allegations, the present FIR was registered.

Learned counsel for the petitioners submits that the present petitioners, who are senior citizens, have been falsely implicated in this case due to matrimonial discord between the complainant and her husband i.e., the petitioners' son. A perusal of the FIR, it is submitted, does not reveal any specific allegations against the present petitioners constituting an offence punishable under Sections 406/498A IPC. It is submitted that an ex-parte divorce has been granted in favour of the petitioners' son on 26.04.2016 which is under challenge by the complainant. A sum of 600 Australian Dollars is being paid by the petitioners' son qua maintenance for the minor child. The locker in question has been operated under the orders of this Court in the present petition (order dated 02.03.2016) in the presence of the Investigating Officer as well as the Local Commissioner appointed by this Court. The entire jewellery which was lying in the said locker is in the custody of respondent No.2. Report dated

11.04.2016 by the Local Commissioner is on record. It is further submitted that petitioner No.1 had suffered from cancer in the year 2002. He had received treatment and is in remission. It is further submitted that on 08.11.2017 an offer had been made before this Court that the petitioners would furnish a sum of ₹10,00,000/- in the form of FDRs in favour of the minor child and respondent No.2 without prejudice to their rights and without the said amount counting towards any kind of maintenance etc. towards the said child or respondent No.2 with a rider that the said amount be not released till the child attains majority. However, the petitioners have not been able to garner the said amount, but they can manage to deposit a sum of ₹5,00,000/- by way of an FDR in favour of the minor child within four weeks from today without prejudice to their rights. It is submitted that the petitioners have joined investigation and they undertake to face the proceedings and not misuse the concession of anticipatory bail, if afforded to them. Therefore, it is prayed that this petition be allowed.

Learned counsel for the complainant has vehemently opposed this petition while submitting that there are specific and serious allegations against the present petitioners for ill-treating the complainant while she was in India and thereafter, suggesting abortion of the child and not even taking adequate care of the complainant when she was expecting. Moreover, the petitioners are aiding their son in remaining a fugitive in law. A false complaint was got registered by petitioner No.2 against the complainant. Reference is made to DDR No.33 dated 04.07.2015, which was ultimately withdrawn.

It is however not denied that there is no medical evidence, at this stage, to indicate any kind of physical abuse of the complainant by the present

petitioners. It is further not denied that the locker in question has since been operated under orders of this Court and entire contents thereof are in the custody of the complainant. A sum of 600 Australian Dollars is admittedly being deposited by the petitioners' son towards maintenance of the minor child. It is not in dispute that interim relief was afforded to the petitioners on 07.12.2015. Efforts were made to enable the parties to amicably resolve the matter but a settlement did not fructify. The petitioners did not abuse the interim relief in the interregnum.

Learned counsel for the State, on instructions from SI Ram Kumar, verifies that the petitioners have joined investigation and are not involved in any other criminal case. It is further submitted that the final report in this case is likely to be presented within four weeks.

There are no allegations on behalf of the State that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, it is considered just and expedient to allow this petition. Consequently, order dated 07.12.2015 is made absolute subject to deposit of a sum of ₹5,00,000/- in the form of FDRs in favour of the minor child – Aryan Sharma, not to be released till the child attains majority, within five weeks from today before the court where the decree of divorce has been challenged by the complainant without prejudice to their rights and without the said amount counting towards any kind of maintenance etc. towards the said child.

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.

March 06 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No