

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

Criminal Misc. No. M- 40616 of 2016 (O&M)

Date of decision : March 08, 2018

Bhagwant Singh

.....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. H.N.S. Gill, Advocate
for the petitioner.

Mr. Sukhpreet Singh, AAG, Punjab.

Mr. J.S. Brar, Advocate
for the complainant.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 128 dated 15.07.2015 under Section 406/498A IPC registered at Police Station City Kharar, SAS Nagar, Mohali.

The above said FIR was registered on a complaint dated 18.02.2015 (Annexure P-1) submitted by the complainant – Harsimrat Kalsi to The All India Chairperson, Human Rights Protection Forum, Mohali. The said complaint was forwarded by the said Forum and the FIR lodged.

As per the allegations in the complaint, marriage between the petitioner's son and the complainant was solemnised on 24.06.2012. It is specifically mentioned that the complainant was subjected to ill-treatment and harassment by her husband as well as parents-in-law and the matter got worse after the birth of a baby girl. Marriage was performed through Bharat

Matrimony website. It is alleged that on the very second day of marriage, the complainant was told that the gifts, jewellery etc. given at the time of marriage were not adequate. The complainant's husband went back to Auckland, New Zealand, where he was working, on 10.07.2012 while promising to facilitate the complainant to join him within a month. It is alleged that the complainant was subjected to ill-treatment by her parents-in-law while she was staying with them as her husband was in New Zealand. In the interregnum, while preparing her papers for going to New Zealand, the complainant came to know that her husband was earlier married and had sought divorce from his first wife. This fact was never brought to her notice but still she chose to overlook the same. The complainant reached Auckland on 27.10.2012. Allegations of ill-treatment at the hands of her husband, being forced to do menial jobs in New Zealand are raised. It is further stated that the present petitioner was extremely interfering. He used to call the complainant's husband numerous times during the day. The money earned by the complainant by doing menial jobs was taken away by her husband. He imposed number of restrictions upon her daily routine. The complainant came to know that though her husband had portrayed himself to be a graphic designer, he was in fact a bus driver in Auckland. It was discovered by the complainant that her husband was colour blind and also had a problem of short memory. The complainant got pregnant and wanted to come to India for delivery but this was not to the liking of her husband. He further refused to allow the complainant's mother to come to New Zealand and asked his own mother to come to New Zealand. A daughter was born on 30.01.2014 in Auckland. Graphic details are given of the ill-treatment etc. meted out to her due to which her counselling had to be done. No care was allegedly

afforded towards the child either. The complainant was compelled to come to India. She had refused but her parents-in-law bought a one way ticket for her and the child but a return ticket for her husband. On return to India, it is alleged that the complainant was treated like a servant in her in-laws home. She was subjected to harassment on account of bringing insufficient dowry. Specific allegations are raised against the present petitioner. It is further stated that the petitioner even refused to give the passport of the child. She was ultimately ousted from the matrimonial home on 01.06.2014 in India. Various efforts were made to rehabilitate the complainant and the minor child but to no avail. It is alleged that on 15.10.2014, the present petitioner even went to the complainant's college in Ludhiana to make inquiries about her character while showing her photograph to the maids and staff in the college. Her call detail records were sought by the accused and the complainant did not deny the same. The petitioner, it is alleged, in his last conversation with the complainant told her that his son is now preparing for another wife. It is stated that the complainant, a physiotherapist, had been abandoned and defamed by all the accused for no fault of hers. FIR was registered on these allegations.

Learned counsel for the petitioner vehemently argues that the petitioner is the father-in-law of the complainant. He has needlessly been involved only because of his relationship with the complainant. Moreover, he has joined investigation. It is, thus, prayed that this petition be allowed.

Learned counsel for the complainant – respondent No. 2 has opposed this petition with equal vehemence while submitting that specific and serious allegations were levelled against all the accused persons including the petitioner. The complainant's husband is admittedly in

Auckland and has not come to India to face the proceedings or even settle the matter one way or the other. It is argued that various opportunities were afforded even during the pendency of this petition to settle the matter but the bona fides of the petitioner and his son are clearly suspect. The complainant had even agreed to part ways on being handed over a sum of ₹13,25,000/- as full and final settlement of all her claims. However, the petitioner again backed out. Therefore, the present petition should be dismissed.

Learned counsel for the State submits that though the petitioner has joined investigation, recoveries are yet to be effected.

I have heard learned counsel for the parties at length.

It is noticed that interim relief was afforded to the petitioner way back on 11.11.2016. It was submitted on behalf of the petitioner that his son was residing in New Zealand and the petitioner is ready to get the dispute settled between the parties one way or the other. This matter was placed before the Mediation and Conciliation Centre of this Court but mediation failed. Opportunity was afforded to the petitioner to seek instructions whether his son would come to India to settle the dispute and further if the petitioner is ready to compensate the complainant and the minor child. Thereafter, on 16.08.2017, the petitioner submitted that it would not be possible for his son and the complainant to reunite but petitioner's son expressed his willingness to hand over a sum of ₹10 lakhs as full and final settlement of all claims of the complainant and the minor child and, in case, the complainant wishes to part company with the minor child, the petitioner and his wife would be willing to take care of the minor child as well. The matter was adjourned on request of learned counsel for

the complainant to seek instructions. Ultimately, the following order was passed on 22.01.2018:-

Learned counsel for the petitioner and respondent No.2 submit that their respective clients have decided not to resume matrimonial ties. A petition under Section 13B of the Hindu Marriage Act, 1955 shall be filed by them. Petitioner/petitioner's son shall handover a sum of ₹13,25,000/- as full and final settlement of all claims of the minor child as well as respondent No.2 regarding alimony, maintenance etc. Sum of ₹10,00,000/- shall be handed over to respondent No.2 and a sum of ₹3,25,000/- shall be handed over by way of an FDR in favour of the minor child, which shall not be encashed till the minor attains majority.

Learned counsel for the parties pray for some time to place on record the written terms and conditions of the settlement between the parties.”

When the matter was taken up for hearing today, learned counsel for the petitioner, on instructions from his client who is present in Court, submits that it would not be possible to stick to the arrangements as mentioned on 22.01.2018 for the reason that now the petitioner's son has back tracked. The petitioner's son has raised a specific condition that the settlement can be arrived at only if the complainant hands over the custody of the minor daughter, aged 4½ years. On a specific query, the petitioner, present in Court, candidly stated that till date, no application seeking the custody of the child has ever been moved either by the petitioner or his son. The conduct of the petitioner and his son (who is comfortably living in New Zealand and not facing the proceedings) is clearly suspect and disentitles the petitioner from seeking the concession of anticipatory bail. It appears that the petitioner has been indulging in mere delay tactics to enjoy the interim relief granted to him.

In view of the facts and circumstances as above, specifically the conduct of the petitioner, no ground is made out to grant the concession of anticipatory bail to him.

Present petition is, accordingly, dismissed.

March 08, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No