

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

CRM-M-43983 of 2015(O&M)

Date of Decision: 19.02.2018

Nadeem

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Liaqat Ali, Advocate
for the petitioner.

Mr. Anmol Malik, AAG., Haryana.

Mr.Rajbir Singh, Advocate
for Mr. A.S.Grewal, Advocate
for the complainant.

LISA GILL, J (Oral).

Petitioner seeks the concession of anticipatory bail in FIR No. 469 dated 09.09.2015, under Sections 406, 498-A, 323, 34 IPC, registered at Police Station Palam Vihar, District Gurgaon.

As per the allegations in the FIR, petitioner and the complainant were married on 28.04.2012. It is stated in the FIR that dowry was given by the complainant's father beyond his capacity, but the petitioner and his family members were not happy with the said articles. The complainant was subjected to ill-treatment and harassment on account of bringing insufficient dowry. She, however, kept tolerating the same. A daughter was born out of the wedlock on 04.06.2013, but she unfortunately passed away. Details of further harassment and ill-treatment at the hands of the petitioner and his family members, is narrated in the FIR. It is specifically mentioned that the

petitioner refused to rehabilitate her in the matrimonial home lest she brought ₹3 lakhs from her father.

Learned counsel for the petitioner argues that in-fact, the petitioner and his wife were divorced as per Muslim law in the month of October 2015. There is no question of any demand of dowry whatsoever. It is thus prayed that this petition be allowed.

Learned counsel for the complainant has refuted the averment that any divorce has taken place between the petitioner and the complainant. It is vehemently argued that this petition be dismissed.

Learned counsel for the State, on instructions from HC Joginder Singh, informs that the petitioner has joined investigation, however certain gold articles are to be recovered.

I have heard learned counsel for the parties.

It is noticed that at the time of issuance of notice of motion on 24.12.2015, contentions on behalf of the petitioner are noted as under:-

“Learned counsel for the petitioner submits that although the petitioner is the main accused being the husband, yet there are chances of an amicable settlement between the parties and his custodial interrogation would not be required. He further submits that it is a matrimonial dispute and there was nothing serious between the husband and wife. He further submits that the petitioner is ready to settle the matter amicably on any reasonable terms acceptable to the complainant-wife.”

A perusal of the petition reveals that in Para 5 thereof, it is mentioned that petition under Section 9 of the Hindu Marriage Act, 1955, was filed by the petitioner. It is noticed that at the time of seeking interim relief, the specific stand of the petitioner was that there is no serious dispute

between the husband and wife. He having filed a petition under Section 9 of the Hindu Marriage Act, 1955, was ready and willing to resume matrimonial ties. The matter along with the connected petitions, was placed before the Mediation and Conciliation Centre of this Court. However, mediation between the parties failed.

On the last date of hearing, learned counsel for the petitioner submitted that the petitioner and his wife were in-fact divorced. The stand and conduct of the petitioner by itself dis-entitles him from any relief whatsoever. Any litigant who approaches this Court, is expected to come with clean hands. In case, such divorce had in-fact taken place in October 2015, there is no question as to why the same was not annexed/mentioned in this petition which was filed on 19.12.2015 or why this fact was concealed at the time of grant of interim relief.

Keeping in view the facts and circumstances of the case, I do not find any ground whatsoever to afford the concession of anticipatory bail to the petitioner.

Petition is accordingly dismissed.

It is clarified that the observations in this order are solely confined for the purpose of decision of this petition and shall have no bearing on the investigation/trial of the case.

19.02.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.