

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

Criminal Misc. No.M- 17064 of 2017(O&M)

Date of Decision: March 16 , 2018.

Jatinder Pal Singh

..... PETITIONER (s)

Versus

State of Punjab

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. S.S.Narula, Advocate
for the petitioner.

Ms. Seena Mand, DAG, Punjab.

Mr. D.S.Mahal, Advocate
for the complainant.

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.

The petitioner prays for bail pending trial in FIR No.18 dated 27.01.2003, under Sections 498A/406/506/323/34 IPC, registered at Police Station City Muktsar.

As per the FIR registered on the statement of the complainant, her marriage was solemnized with the petitioner on 25.01.2000 at Muktsar. Two children, a son and a daughter were born out of this wedlock. Sufficient dowry, it

is stated, was given at the time of marriage. However, the complainant was subjected to ill-treatment and harassment at the hands of her husband (the petitioner), mother-in-law and sisters-in-law. It is stated that the petitioner visited America frequently and in his absence, the complainant's mother-in-law, sisters-in-law and their respective husbands started taunting her for bringing less dowry. A demand for a car was raised by the said persons. The complainant informed her parents about the said harassment. Her brother and Harpreet Singh son of Makhan Singh pleaded with her in-laws, but they stuck to their demand of a Honda City car. A Panchayat was convened and the complainant was left at her in-laws house, but the accused again started harassing her. It is alleged that the complainant's mother-in-law started proclaiming that she would get her son married at some other place. Both the sisters-in-law of the complainant are alleged to have provoked her husband i.e. the petitioner on which he physically abused the complainant, snatched her jewellery and threw her out of the matrimonial home. On the basis of the above allegations, the present FIR was registered in the year 2003.

It is to be noted that the accused mother-in-law of the complainant (mother of the present petitioner) passed away and both the complainant's sisters-in-law were acquitted by the learned trial court in May, 2007 (Annexure P2). The petitioner was declared a proclaimed offender on 23.04.2004. He was arrested on 09.04.2017.

Learned counsel for the petitioner vehemently argues that the averments in the FIR regarding ill-treatment of the complainant at the hands of the petitioner are false and incorrect. No specific allegation has been raised qua

the present petitioner. It is vehemently argued that the petitioner even after the registration of the abovesaid FIR in the year 2003, used to visit India periodically. Reference is made to the entries in his passport (Annexure P3). The petitioner was declared a proclaimed offender on 23.04.2004 in complete violation of the settled provisions of law. The complainant was very well aware of the exact address of the petitioner in USA. It is submitted that the petitioner used to stay with the complainant and the minor children as and when he used to visit India. He was regularly paying the maintenance for upkeep of the complainant as well as the children. Reference is made to Annexure P4 wherein the complainant accepted the receipt of certain sums of money.

Learned counsel for the petitioner submits that both the sisters of the petitioner were acquitted by the learned trial court on 05.05.2007 as the complainant did not support the prosecution case. This was for the reason that the petitioner was looking after the complainant and the minor children. He was living with them as and when he came to India. The petitioner was never made aware by the complainant that the proceedings in the abovesaid FIR were still pending qua him. The petitioner had even moved an application in the year 2015 to facilitate the transit of the complainant and both his children to USA on a clear understanding that the criminal case against him already stood withdrawn by the complainant. However, when it came to his notice that the matter was still pursued by the complainant, he withdrew his consent with regard to the transit of his wife and children to USA. The petitioner, it is contended, made all efforts to amicably resolve the matter when interim bail was afforded to him by this Court on 18.05.2017. The petitioner has surrendered his passport and submitted an

undertaking that he would not go back to USA without permission of the court. However, mediation between the parties was unsuccessful. The petitioner in compliance with order dated 22.02.2018 passed by this Court surrendered before the jail authorities on 23.02.2018 and is in custody. It is further submitted that the petitioner to display his bonafides, undertakes to deposit two FDRs to the tune of ₹1,00,000/- each in favour of both his children. This is so stated by learned counsel for the petitioner on instructions from Harcharan Singh son of Ardaman Singh i.e. the brother of the petitioner, who is present in Court today. The petitioner, it is submitted, is not involved in any other criminal case. The petitioner undertakes to face the proceedings, not to go abroad during the pendency thereof without the specific permission of the learned trial court and not to misuse the concession of bail, if afforded to him. It is thus prayed that this petition be allowed.

Learned counsel for the complainant has opposed this petition while submitting that there are specific allegations against the petitioner.

The complainant, duly identified by his counsel is present in Court. It is not denied by her that the petitioner used to keep visiting India periodically even after the registration of the FIR in the year 2003 and whenever he visited India, he would reside with her and the minor children. Receipt of the money as mentioned in Annexure P4 is not denied, though it is stated that the same is a mere pittance and definitely not enough for the maintenance of three persons. It is further informed that the complainant is in possession of a small house, which otherwise belongs to her sister-in-law and the said house, it is contended, is in a dilapidated condition.

Learned counsel for the State verifies that the petitioner is not involved in any other criminal case and has surrendered on 23.02.2018 before the jail authorities in compliance with order dated 22.02.2018 passed by this Court. It is further verified that the petitioner has surrendered his passport in terms of order dated 18.05.2017 passed by this Court.

It is noticed that mediation between the parties has failed. Efforts were made to enable the parties to resolve the dispute before this Court as well, but no fruitful result could be arrived at. The petitioner is not reported to be involved in any other criminal case. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case. There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

The petitioner shall deposit before the learned trial court two FDRs to the tune of ₹1,00,000/- each in favour of both the minor children within four weeks from the date of receipt of certified copy of the order. It is further directed that the petitioner shall not leave the country without express permission of the learned trial court.

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.

Marcy 16 , 2018.
'om'

(LISA GILL)
JUDGE

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