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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 117/2017**

JITENDER SINGH Petitioner
Through: Mr. Suresh Sharma, Adv.

versus

THE STATE (NCT OF DELHI) Respondent
Through: Mr. Kamal Kr. Ghei, APP for State.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **14.03.2018**

On behalf of the State the copy of the MLC of the Deen Dayal Upadhyay Hospital, New Delhi in relation to the date of admission of complainant on 16.10.2015 and discharge on 13.10.2015 has been submitted.

On behalf of the petitioner it has been submitted that he has falsely been implicated qua the alleged commission of offences under Sections 498A/406/34 Indian Penal Code, 1860.

Vide proceedings dated 15.11.2017 as a perusal of the record reveals that there was a three years child born of the wedlock of the petitioner and the complainant, the matter had been referred to the Delhi High Court Mediation and Conciliation Centre for 16.11.2017. The report dated 2.1.2018 has been received from the Delhi High Court Mediation and Conciliation Centre showing that no settlement has been arrived at between the parties.

On behalf of the petitioner, it has been submitted that no cause

of action whatsoever arose against the petitioner qua the alleged commission of offences punishable under Sections 498A/406 of the Indian Penal Code, 1860 and that the FIR has been lodged in Delhi with the intent to harass the petitioner.

On behalf of the State, the submission is refuted and it is submitted to the effect that the complainant was thrown out of the matrimonial home and continued to live in Delhi and the FIR was registered at Delhi and that the initiation of the proceedings at Delhi is in continuation to the commission of the offence committed by the petitioner against her. Submissions made in the FIR *inter alia* are that the complainant had been compelled to undergo an abortion by the petitioner which is refuted on behalf of the petitioner submitting to the effect that in proceedings under Section 9 of the HMA filed by the petitioner, pending in the Court at District, Taran Taran, the complainant herein had not refuted the factum of the abortion having taken place with her consent and the subsequent application filed by the complainant seeking the amendment in the response submitted by her to the reply to the petition under Section 9 of the HMA was declined, vide order dated 11.9.2017 in Civil Suit No.3/2016 of the Additional Civil Judge (Senior Division), Taran Taran. In reply to a specific court query on behalf of the complainant it was submitted that the said order has been assailed before the High Court of Punjab and Haryana and the proceedings are pending.

On behalf of the State reliance has *inter alia* been placed on the verdict of this Court in **Udit Raj Poonia vs. State (Government of NCT of Delhi)**, 2017 (1) LRC 611 (Delhi) contending to the effect that before the investigating officer reaches to the conclusion with

regard to recovery of article whether it is a stridhan article or any other article, the Investigating Office is not to arrest the person for the recovery of the same and that the bail application ought not to be rejected for settling the scores between the parties.

On behalf of the petitioner it was further contended that during the course of the investigation conducted by the Investigating Officer, the petitioner has joined investigation thrice and has been on interim protection ever since the institution of the present petition almost a year ago. It has also been submitted on behalf of the petitioner that the complainant has not taken the articles of dowry that had been recovered by the investigating agency.

On behalf of the State and the complainant, it has been submitted inter alia to the effect that apart from the allegations against the petitioner qua offences punishable under Section 498A and 406 of the Indian Penal Code, 1860 there were allegations on the record in relation to the miscarriage caused and loss of the child of the petitioner and the complainant, by the act of the petitioner and inter alia it has been submitted on behalf of the complainant that an offence punishable under Section 313 of Indian Penal Code, 1860 is also made out against the petitioner. Reliance inter alia was placed on behalf of the State and on behalf of the complainant on the MLC of the Civil Hospital, Taran Taran of the date 12.10.2015 to indicate that there were drugs forcibly administered to the complainant eight days prior to the same and thereafter the complainant had also been admitted to the Deen Dayal Upadhyay Hospital, New Delhi for the period from 16.10.2015 till 19.10.2015 for a period of four days which report inter alia indicates an incomplete abortion. On behalf of

the petitioner reliance is placed on the records of the Punjab Health System Corporation to contend that in view of the last menstrual cycle such an abortion was not possible.

On a consideration of the submissions made on behalf of the State the MLC of the Civil Hospital, Taran Taran and of the Deen Dayal Upadhyay Hospital, New Delhi which reflect an incomplete abortion as contended also on behalf of the State and the complainant, there is no ground for grant of bail. All interim protections granted to the petitioner are withdrawn. However, nothing observed hereinabove shall amount to an observation on the merits or demerits of the case.

The bail application is declined.

ANU MALHOTRA, J

MARCH 14, 2018/ak