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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 18th December, 2018

+ BAIL APPLN. 2999/2018 & CrI.M.A. 50066/2018

SATISH DAHIYA

..... Petitioner

Through: Mr. Gagan Chawla, Adv.

versus

THE STATE (GOVT OF NCT OF DELHI) Respondent

Through: Mr. Sanjeev Sabharwal, APP
for the State with W/ASI
Sushma, PS Uttam Nagar.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The first information report (FIR) no. 942/2018 has been registered by police station Uttam Nagar on 09.10.2018 for investigation into offences under Sections 498A/406/34 of the Indian Penal Code, 1860 (IPC). The said FIR has been instituted by Sheetal Kadian with whom the petitioner was married on 27.11.2017. The petitioner, apprehending arrest, had earlier moved bail application (no. 30167/2018) in the court of sessions. His application was dismissed by order dated 11.12.2018 of the said court whereafter he has approached this Court by the present application under Section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.), his prime submission being that the complainant of the case herself is guilty of deserting him and subjecting him and members of his family to cruelty, the marriage of

the parties being an arranged one in which there was no demand or exchange of dowry and, therefore, the allegations of harassment for dowry have been falsely cooked up. It is alleged by the petitioner that the complainant had stayed in the matrimonial home only for a few days whereafter she, having quarreled with him and his family, had left his society on 09.12.2017 with her entire jewellery and money. He would also refer to an incident on 16.03.2018 wherein the complainant, according to him, had made an attempt to forcibly enter his house with the aid and assistance of members of her parental family, photographs of CCTV footage in such regard having been placed on record. He refers to certain photographs of the complainant on social media which precede the date of marriage of the parties, the same according to him, indicating that the jewellery which is stated to have given in dowry actually was not purchased for purposes of the marriage of the parties.

2. The FIR has been registered on the basis of complaint which was presented on 16.03.2018 to DCP Crime against Women Cell, immediately after the events of 15th and 16th March, 2018. The petitioner also relies on an interview given by the complainant to certain news channels according to which, as per the petitioner, the complainant had admitted that she was not living in the matrimonial home for certain period.

3. During the course of hearing, it was brought to light that the petitioner has not returned any of the *Streedhan* articles, not even the jewellery items, the only property restored being a car which was

concededly given as part of the dowry in the marriage. The counsel for the complainant submitted that the jewellery articles which have been subjected to criminal mis-appropriation are themselves worth over Rs. 27 lakhs, it being inconceivable that the complainant would have left with the entire said property in the circumstances in which she was forced to go out of the matrimonial home. The petitioner, however, would insist that there is no *streedhan* article, not even any piece of jewellery of the complainant, in his possession or control. He submitted that proof of purchase of jewellery, of value a little over Rs. 9 lakhs only has been mustered, the claim of jewellery worth more than that amount being baseless and concocted.

4. The above submission, by itself, *prima facie*, belies the contention that in the marriage of the parties, no precious gifts were given by the parental family of the complainant. On the contrary, the photographs of the dowry articles, as given in the marriage ceremonies, are part of the evidence which has been gathered verification, as admitted by the petitioner himself, of a substantial part having already been done.

5. The allegations in the FIR make out a very serious case of harassment of the petitioner in the matrimonial home, the petitioner being party to the acts of commission or omission causing such harassment, during the short period the complainant stayed there. The complainant has also levelled allegations of the petitioner being vicious to the extent of he having beaten her up, during midnight and having attempted to force her into unnatural sex and having disrobed

her at a public place in the presence of others. It does appear that at the instance of the sister of the petitioner, two FIRs have been registered against the complainant, they being FIR no. 182/2018 of police station Saket under Sections 323/506 and FIR No. 257/2018 of police station Dwarka South for offences under Sections 506/509/34 IPC. But, mere registration of the said FIRs against the complainant at the instance of the sister of the petitioner is no reason why allegations of the complainant in the present FIR be treated as those of suspect origin.

6. From the submissions made on behalf of the petitioner, it is clear that he is disinclined to cooperate with investigation or sit across and resolve the dispute amicably, possibly through the processes of mediation or conciliation. He is also not inclined to offer himself, or his house, for search for the recovery of the *streedhan* articles. The allegations against him in the FIR cannot be brushed aside as unfounded; they would require probe.

7. Given these facts, and the position taken by the petitioner, this court is not inclined to admit the petitioner to anticipatory bail.

8. The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

DECEMBER 18, 2018

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