

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

CRM-M-3003 of 2019 (O&M).
Decided on:- September 23, 2019.

Sudhir Garg.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ram Kumar Saini, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

Mr. Gaurav Sethi, Advocate
for respondent No.2-complainant.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in FIR No.99 dated 01.10.2018 under Sections 323, 406 and 498-A IPC registered at Women Police Station, Ambala, District Ambala.

The aforesaid FIR was registered at the behest of respondent No.2-complainant Ankita Garg whose marriage was solemnised with the petitioner on 20.01.2016. As per the FIR, a sum of Rs.25 lakh was spent in the marriage and the parents of respondent No.2 had given household articles besides gold ornaments and cash amount of Rs.10 lakh. However, within one

week of the marriage, even the jewellery worn by the complainant was taken away from her. There are allegations that the accused started taunting the complainant on the ground that the marriage was not solemnised as per their status and Baratis were not treated well. The dowry articles given in the marriage were of inferior qualities and were not of their standard. It is misfortune of the accused, that they tied the knot of their son with the complainant. In this manner, the accused cursed the parents of the complainant while saying that such type of marriage is done by beggars in today's world.

The parents-in-law and husband of the complainant left no chance to harass her. They made it their habit to curse and torture her physically and mentally at every hour of time. She was made to do all household work and was treated as a domestic servant. She was not even allowed to use washing machine, mixer-grinder etc. and was made to do all the chores with bare hands only. After the marriage, when the complainant had come to her parental house for Pagphera ceremony, she had disclosed the harassment met to her and thereafter, her parents tried to persuade the accused persons to keep the complainant with love and affection with an assurance that they will try to fulfil the demand of Rs.3 lakh, but still the accused remained consistent of their demand and because of the stress, shock and depression, father of the complainant died on 15.03.2016. Instead of having sympathy towards the complainant, the behaviour of the accused rather proved to be more aggravating to the misfortune of the complainant and on 11.06.2016, when the complainant had returned from her parental home after

attaining Barsi of her deceased father, the accused persons had given beating to her and again raised the demand that she should bring her share from the property of her deceased father and the same be transferred in the name of the petitioner-husband. The accused used to beat the complainant mercilessly and she was confined in a room, so that she could not disclose it to anybody and cannot get any medical aid for her injuries.

On January 23, 2019, when this petition came up for hearing before this Court, learned counsel for the petitioner had submitted that the petitioner is ready to settle the dispute with respondent No.2-complainant. Accordingly, arrest of the petitioner was stayed and later on, vide order dated March 27, 2019 passed by this Court, the matter was referred to the Mediation and Conciliation Centre of this Court.

Report dated 19.09.2019 from the Mediator was received to the effect that the parties had appeared before the Mediator. The petitioner and his counsel had put their signatures on the settlement dated 02.09.2019 along with counsel for the complainant. However, the complainant had not signed this settlement and sought for time as she was not feeling well on that day. Accordingly, the mediation was fixed for 10.09.2019 so as to get the terms and conditions of settlement signed from the complainant, but she did not appear and in this manner, in the absence of signatures of the complainant on the settlement, the matter has been sent back to this Court for consideration on merit.

Learned counsel for the petitioner has argued that, in fact, the petitioner has accepted the terms and conditions of the settlement/compromise so entered between the parties on 02.09.2019 in principle, which was duly signed by the petitioner and his counsel, but respondent No.2-complainant intentionally did not sign it. Thus, there is a gross misuse and abuse of process of law by the complainant. The petitioner has been entangled in the present case without there being any cogent and incriminating material against him. The case was registered only on the statement of the complainant, who is wife of the petitioner and she has made false allegations against the petitioner without there being any substance in the allegations.

He has further argued that the marriage between the petitioner and complainant was solemnised on 20.01.2016 and it was a simple marriage and no dowry was given. From the very beginning, the complainant started misbehaving with the petitioner and his family members. The petitioner tried to make her (complainant) understand, but there is ego problem with the complainant and even her parents, instead of making the complainant understand, have rather provoked her against the petitioner and his family members. At one point of time, she had made a false complaint against the petitioner before the Women Cell, Ambala, however, with the intervention of police officials and family members of the petitioner, a compromise was entered between them and in pursuance of the compromise, the complainant took all her belongings including jewellery and Streedhan from her matrimonial home. Both the parties were required to file a divorce petition under Section 13-B of the Hindu Marriage Act, 1995, but suddenly for the

reasons best known to the complainant, she had resiled from that compromise also.

He has further contended that vide order dated 16.01.2019 passed by learned Sessions Judge, Ambala, the anticipatory bail to the petitioner was declined. He has referred paragraph No.8 of the said order, wherein it is mentioned that the investigating officer had stated that the dowry articles had been returned in her presence.

He has further referred to the settlement/compromise dated 02.09.2019 and contended that the terms and conditions of the settlement were reduced into writing through the mediation and were duly signed by the petitioner and his counsel. However, the complainant did not sign the settlement though her counsel has signed the same. He has referred to ***Jagdish Thakkar Versus State of Delhi 1992(3) CCR 2764; Uday Singh Versus State of Haryana 2001(1) RCR (Criminal) 354; Anil Rajput and others Versus State of Haryana 2010(6) RCR (Criminal) 1126; Beant Singh and another Versus State of Punjab 2011(2) RCR (Criminal) 381 and Rajesh Sharma and others Versus State of U.P. and another 2017(3) RCR (Criminal) 836*** to contend that even if the allegation that the recovery is to be effected is no ground to deny the anticipatory bail.

On the other hand, learned counsel for respondent No.2-complainant has argued that the allegations against the petitioner are serious as immediately after the marriage, the petitioner and his family members started harassing the complainant for bringing insufficient dowry. There was

consistent pressure upon her to meet their demand. Since the complainant has not accepted the so-called settlement dated 02.09.2019 and has not signed the same, the document is of no relevance and cannot be relied upon. The very purpose of referring the matter to the mediation is to resolve the dispute with amicable settlement, but since the dispute has not been settled amicably, the so-called settlement/compromise dated 02.09.2019, which is not signed by the complainant, has no legal sanctity.

Learned State counsel has submitted that efforts were being made to compromise the matter and it is in this context, the statement was made by the investigating officer that the recovery of dowry articles had been effected, but in fact, the recovery of dowry articles have not been effected in the case. Thus, it is in this background, the investigating officer had stated before learned Sessions Judge on 16.01.2019 that the dowry articles were recovered in her presence. Thus recovery of dowry articles are yet to be effected in the case.

I have heard learned counsel for the parties.

In the present case, it is not in dispute that marriage between the petitioner and respondent No.2-complainant was solemnised on 20.01.2016. Generally, unless there are compelling reasons, no wife would like to make such like allegations at such an early stage of their marriage. There are specific allegations of beating against the petitioner. The complainant was compelled to bring her share from the property of her deceased father. Immediately after the marriage when the complainant had come to here

parental home for Pagphera ceremony, she had disclosed the harassment caused to her by the petitioner and her in-laws.

Having gone into the order dated 16.01.2019 passed by learned Sessions Judge, Ambala, the argument of learned counsel for the petitioner that the investigating officer had submitted that no recovery is to be effected, cannot be accepted, as there is a clear explanation from the investigating officer, who is otherwise present in Court. The investigating officer has submitted that the statement was made by her in the context of matter being compromised between the parties, but in fact, no such recovery has been effected. Even otherwise, the inventory has duly been prepared and was signed by the complainant. Thus she (investigating officer) has seriously contested the recoveries in the case.

Similarly, though the matter was sent to mediation and a settlement/compromise dated 02.09.2019 was reduced into writing, but since it was not signed by respondent No.2-complainant, it cannot be treated as settlement even if it is signed by counsel for respondent No.2-complainant. The very purpose of referring the matter to mediation is to enable both the parties to resolve their dispute by way of amicable settlement. In the present case, the respondent No.2-complainant has not accepted the settlement/compromise dated 02.09.2019 and it is for this reason she has not signed the same, therefore, for all intent and purposes, it is not a compromise in the eyes of law.

The judgments cited by learned counsel for the petitioner are primarily on the point that merely because some recovery is to be effected, anticipatory bail cannot be declined. There is no dispute so far as the referred judgments are concerned, but present is a case, where specific allegations have been made by respondent No.2-complainant regarding her beating and harassment on account of demand of dowry. Such allegations were made immediately after marriage. Generally no woman shall make such allegations at such early stage, unless there are compelling reasons for her to state so.

Therefore, there being specific allegations of beating, cruelty and harassment on account of demand of dowry at such early stage of marriage, this Court finds that no ground is made out to grant anticipatory bail to the petitioner.

Accordingly, the present petition, being devoid of any merit, is dismissed.

It is made clear that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case. The trial Court shall decide the case without being influenced with these observations in any manner.

September 23, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No