

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205+103

CRM-M-22912-2018 (O&M)

Date of Decision:23.05.2019

Karan Gauba

.....Petitioner

Versus

State of Haryana and another

.....Respondents

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

**Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Vishavjit S. Virk, Advocate,
for the petitioner.**

**Ms. Mahima Yashpal, A.A.G., Haryana,
for respondent No.1-State.**

**Mr. Pavan Malik, Advocate,
for the complainant-respondent No.2.**

HARI PAL VERMA, J.

CRM-14845-2019

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record documents Annexures R-2/1 to R-2/7.

Application is allowed, as prayed for. The documents Annexures R-2/1 to R-2/7 are taken on record, subject to all just exceptions.

CRM-M-22912-2018

Petitioner has filed the present petition under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No. 642 dated 01.12.2017 under Sections 323, 498-A, 506, 406/34 IPC, registered at Police Station, Sector 5, Panchkula.

The aforesaid FIR was registered at the behest of complainant-

Richika Soni, whose marriage was solemnized with the petitioner on 27.04.2015 at JW Marriot Hotel, Sector 35, Chandigarh. As per FIR, the meeting of *roka ceremony* of the complainant with the petitioner took place on 14.1.2015 at Hotel Prabhat Inn, Sector-10, Panchkula. However, Umesh Gauba wife of Shri Prem Parkash Gauba (mother-in-law) accused No.1 emphasized and forced the complainant's father that this meeting be held in a 5-Star Hotel only in Chandigarh as it is a status symbol for all her relatives residing in Chandigarh, though, father of the complainant requested them that as it is only just a meeting, such function can be held in a 2 or 3 Star Hotel. Accused No.1 (mother-in-law) then agreed on the ground that the marriage would be held in a 5 Star Hotel. On 14.1.2015, the meeting was fixed and conducted during the first half of the day and before the *roka ceremony*, mother-in-law took the complainant to a corner and told her to ask her parents to give shagun with gold coins as it is auspicious to start the first ceremony with the purity of gold. On this short urgent notice and the demand raised, the family of the complainant somehow managed to give five gold coins as shagun to accused No.2, one gold coin each to accused No.1, accused No.3 and accused No.2's parental grandfather, maternal grandmother and maternal uncle and shagun of Rs. 5100/- each to all of them were given with sweet boxes for their relatives and neighbours. During the meeting, accused No.1 also demanded a Toyota Fortuner Car for the engagement and then a Mercedes or any other similar BMW Car at the time of the wedding, so that her handsome educated son can be adequately valued and paid for being tall, slim and an educated man. The parents of the complainant have shown their incapability to fulfil the desires as they could only spend according to their capacity and will not be able to fulfill these

demands. A week before the engagement when the complainant was travelling abroad for her official work, the petitioner broke the relations with the complainant on the plea that his mother is not happy with the complainant as she(complainant) is not able to understand her wishes and happiness of her son's engagement functions. Accordingly, accused No.1 (mother-in-law) called the complainant to make her (complainant) understand and said that the complainant is the only daughter and they are required to please the family of the groom. However, when the complainant reacted that they can not afford Toyota Fortuner Car for the engagement, accused No.1 (mother-in-law) told her that her father is a big businessman and can easily spend Rs.5 to 10 lakhs. Thereafter, numerous whatsapp messages were received from accused No.1. Realizing her mistake on 17.2.2015 which is the engagement day, the family of the complainant had managed to hand over 3 solitaire rings, pure silver thaal with silver bowl, gold coins, gold chain with diamond pendant, iphone 6S for accused No.2 and one gold set for accused No.1, cash for accused No.3 and shagun to all relatives and friends in small denomination of Rs.5100/- each and maximum Rs.31,000/-. Thereafter, the marriage was fixed for 27.4.2015. Accused No.1 started meeting the complainant at various markets and shopping places on the pretext of shopping. Before wedding, accused No.2 booked honeymoon package at Krabi Islands (Thailand) from HDFC Credit Card of the complainant by saying that "Baby, you have enough money let us enjoy". However, when the complainant resisted this, the petitioner has said that her brother also earns and therefore, he should arrange for their honeymoon package. However, "the complainant agreed for money through her credit card to be used."

The parents of the complainant fulfilled the demands raised by the petitioner-accused and other family members, but they were still not happy. The complainant was made to compel to do all household works, i.e., brooming, mopping, washing clothes by hands, dusting and utensils cleaning etc. The act and behaviour on the part of the accused persons forced the complainant to leave the matrimonial home. However, with the interference of the respectables, she joined the matrimonial home again but atrocities on the part of the accused continued. The act on the part of the petitioner-accused and his parents constrained the complainant to leave the matrimonial home and accordingly, the present FIR was registered.

On May 28, 2018, this Court had passed the following order:-

“It is, inter alia, contended that the petitioner seeks to amicably resolve the entire dispute with his wife-respondent No.2.

Notice of motion for 03.08.2018 subject to deposit of Rs.30,000/- with the Registry of this Court, to be paid as litigation expenses to respondent No.2.

The petitioner and respondent No.2 are directed to remain present in Court on the next date of hearing.

In the meanwhile, petitioner shall appear before the Investigating Officer and shall fully cooperate in the investigation of this case. In the event of his arrest, petitioner shall be released on interim bail to the satisfaction of Investigating Officer. Petitioner shall comply with the conditions stipulated in Section 438(2) Cr.P.C.

Copy of this order be served alongwith the notice.”

Thereafter, vide order dated 3.8.2018, when the parties have shown their readiness to settle their disputes amicably through the

meditation process, the matter was sent to the mediator and Mr. Deepak Jindal, Advocate was appointed as Mediator in the case. Though, Mr. Jindal has continued for some time as Mediator, but thereafter due to some personal reasons, he withdrew himself from the case.

Mr. Ghai, learned senior Advocate appearing on behalf of the petitioner has argued that the marriage between the parties was solemnized on 27.4.2015. The complainant is a Law Officer and is working with a Multinational Company i.e. M/s Pinkerton-A Risk Management Consultancy at Sector-44, Gurugram. No recovery is required to be effected from the petitioner as all dowry articles have already been taken by the complainant, as locker used to be operated by her only. Moreover, merely because recovery of some dowry articles is required to be effected in the case, is not a ground to decline anticipatory bail to the petitioner. Firstly, no recovery of jewellery is required to be effected as the complainant who was already operating the locker has taken away all the jewellery with her. Secondly, the allegation of causing any injury on the person of the complainant is nothing but a concocted story propounded by the complainant, so as to create biasness in the mind of the Court. There is no such medical report to substantiate such allegation.

On the other hand, learned counsel for the complainant has argued that the complainant was forced to live at her parental home for three months and the accused have taunted the complainant to give a car. The petitioner neglected and stopped taking calls of the complainant. Sufficient dowry much beyond the capacity of the parents of the complainant was given in the marriage. Even the parents of the complainant have given 11 sarees, 11 suits, 5 gold sets, 5 bed covers, 21 fruit baskets, 1 rice cooker, 2

dinner sets and Rs.5 lakhs in cash on the occasion of first Karwa Chauth, so that the marriage is not broken. The same were loaded in Nissan Duster Car of accused No.1 (mother-in-law) and after checking the gifts packed in the car, the accused took the complainant to the matrimonial home at Delhi. The petitioner had forced the complainant to consume liquor, which the complainant refused to take. On her refusal and resistance, she was slapped and banged her head with the bed. Accused hit the complainant continuously and did not stop till the time he found blood oozing out of her nose. It is only when the food delivery man came to deliver dinner at around 11 PM, as the bell rang, the complainant somehow managed to escape from the room barefoot and ran towards the gate of the society to save herself. She was given mental harassment by calling her illegitimate blood. The petitioner again booked Goa tickets from the wife's debit card on 2.8.2017. The complainant was abused and given beatings by the petitioner at different times.

Learned counsel for the complainant as well as learned State counsel have referred the medical record of the complainant whereby tenderness/swelling is seen on the left wrist and joint wrist with the help of photographs dated 2.8.2017 (Annexure R-2/1). X-ray was conducted for which the expert opinion was awaited. They have further argued that the accused are so effective that even the office of Medical Director of Deen Dayal Upadhyay Hospital, New Delhi has not issued the X-ray report under the RTI on the plea that it is a third party information and, therefore, it being a medico legal case, no such information can be given.

Heard learned counsel for the parties.

Vide order dated May 6, 2019, in order to ascertain as to

whether the complainant has really suffered injuries at the hands of the petitioner and the complainant was medico legally examined by Deen Dayal Upadhyay Hospital on 2.8.2017, this Court had directed the DCP, Panchkula to have a contact with his counterpart, i.e. DCP Rajauri Garden, West Delhi, regarding the injuries caused on the person of the complainant.

A letter dated 21.5.2019 has been issued by the Consultant &, Head Department of Radiology, DDU Hospital, Hari Nagar, Govt. of NCT, Delhi, which refers to the report of the Radiology Department. The operative part of the letter dated 21.5.2019 does refer as under:-

“We have checked the entire record and found that on 2.8.2017 an X-Ray of Left Shoulder was conducted on 2.8.2017 in the Name of Richika Soni 29/F under E No. 214824 MLC No. 007156 MLC X-Ray No.3465 (Attested Photocopy having report of Left Shoulder is enclosed). While there is also an entry for Richika Soni 29F/214824 in the Non-MLC-Emergency X-Ray Entry Register on dated 2.8.2017 having Emergency X-Ray Entry No. 69977 (Attested Photocopy is enclosed). As per routine procedure Non-MLC X-Ray Films are being issued to the treating Doctor through Patient/Attendant.

There is no other Record/Report is available with the Radiology Department.”

At the same time, a certificate has also been issued by Civil Hospital, Sector 6, Panchkula, wherein the complainant has sought treatment for injury which was caused on her person on 2.8.2017 in Delhi and her medical was conducted on 2.8.2017 at Delhi. On 19.8.2017, for the injury caused to the complainant, X-ray was done. The X-ray report shows DER (Distal end Radius) fractures below elbow in the left arm. On 11.9.2017 her (complainant) X-ray was advised and plaster was again given.

On 29.9.2017, she was put on tablet diclo and gel. Diclo for pains in the injury in the left arm. Thus, this Court finds that the complainant has received injuries and the allegations for such injuries have been attributed to the petitioner. Even otherwise, recovery in the case has yet not been effected.

Marriage between the parties was solemnized on 27.4.2015 which is not a very old marriage and generally no woman would like to get an FIR registered against husband and in-laws unless she has been given harassment for demand of dowry. The allegations in the case in hand against the petitioner and other accused are not only for demand of dowry, rather there are specific allegations against the petitioner-husband for causing harassment and given beatings to the complainant for which she had to take medical treatment, not only from Delhi Hospital, but also from Civil Hospital, Sector 6, Panchkula as well. Even for the injuries suffered by the complainant, she was not being supplied the medical record on the pretext that it is a third party information, whereas the complainant herself was sufferer in the case for the injuries at the hands of the petitioner.

The conduct of the petitioner and there being serious allegations against him, this Court does not find any ground to admit him on anticipatory bail, more particularly when recovery is yet to be effected in the case and the complainant has received injuries at the hands of the petitioner-accused.

Dismissed.

May 23, 2019
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No