

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-8496 of 2016 (O&M)

Date of Decision: 27.05.2019

Abhishek Banga

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

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

Present:- Mr. Karanjit Singh, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Munish Gupta, Advocate
for respondent no.2.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.174 dated 22.07.2015 under Sections 406 and 498-A IPC registered at Police Station Model Town, Hoshiarpur, District Hoshiarpur.

This Court vide order dated 11.03.2016 had granted interim bail to the petitioner and thereafter, vide order dated 27.04.2016, directed the parties to appear before the Mediation and Conciliation Centre of this Court. Accordingly, the parties have appeared before the Mediation and Conciliation Centre of this Court as well as before Mediation and

Conciliation Centre District Court, Hoshiarpur, so as to explore the possibilities of any settlement. On 09.11.2017, this Court passed the following order:-

“Pursuant to the order dated 13.09.2017, complainant/respondent No.2 presented herself before the Investigating Officer to identify her dowry articles and has identified some of the dowry articles, while submitting that some of the dowry articles which have been shown to her/handed over to the Investigating Officer in fact, do not belong to her.

A list of shortfall dowry articles has been handed over to counsel appearing on behalf of the respondent-State as well as to the counsel for the petitioner and they seek time to work on it. As far as the dowry articles which have been identified and as belonging to the complainant, she is at liberty to take them.

Adjourned to 17.02.2018.

Interim order to continue.”

Learned counsel for the petitioner has argued that the petitioner has joined investigation in the case. He submits that at the most, the respondent-wife has contributed Rs.36,000/- for buying the car in question. He further states that no recovery is required to be effected.

On the other hand, learned counsel appearing for respondent no.2-complainant has argued that though the car was purchased in the name of the petitioner, but complainant has also paid the instalments of the car from March, 2013 to June, 2014 and in this manner, a substantial amount has been paid by the complainant. He submits that gold set, diamond ring and gold kara are yet to be recovered.

Learned State counsel, on instructions from ASI Jagdish Lal, submits that during investigation, recovery of gold bangle, diamond ring, a brief case and a brass parat etc. was made, but the complainant has not taken the same, saying that these articles did not belong to her.

Having heard learned counsel for the parties and considering the fact that the petitioner has joined investigation in the case, this Court cannot act as an investigating agency in the case, however, in order to protect the interest of the complainant, the petitioner is directed to deposit a sum of Rs.3 lakhs with the trial Court, in the name of the complainant, in the shape of FDRs from a nationalized bank, which shall be governed as per the final outcome of the trial. The complainant shall be entitled to encash the said FDRs only in case she proves the case of the prosecution.

Accordingly, the present petition is allowed and the interim order dated 11.03.2016 passed by this Court is made absolute.

However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

The complainant shall be at liberty to take possession of the articles so recovered in the case against a valid receipt.

May 27, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No