

CRM-M-8961-2016

Date of Decision : 08.11.2019

Pankaj Goyal

.....Petitioner

versus

State of Haryana and another

....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. A.P. Bhandari, Advocate
for the petitioner.Mr. Ripu Daman, AAG, Haryana
for respondent No.1-State.Mr. N.S. Shekhawat, Advocate
for respondent No.2.**FATEH DEEP SINGH, J. (ORAL)**

The brief sketch which led to the initiation of this petition under Section 482 Cr.P.C. by accused/petitioner-Pankaj Goyal are as follows:-

The marriage of the petitioner-Pankaj Goyal and complainant-Dr. Anjali Gupta took place on 05.12.2014. The complainant claims that her family has spent more than ₹22 lacs on

this marriage, where gold ornaments, valuable articles including clothes etc. as well as cash, were given in lieu of this marriage as per the asking of the accused/in-laws. It is alleged that after the marriage, the conduct of the petitioner/husband underwent a change and he started demanding a big car and raised demand of huge cash and as a consequence of this matrimonial disaccord leading to the registration of the present case by way of FIR No.362 dated 13.04.2015 under Sections 498-A, 323, 406 and 34 of the Indian Penal Code registered at Police Station Hisar City.

The accused was allowed bail by the Court of learned Judicial Magistrate 1st Class, Hisar. It is during the pendency of the same, the complainant filed a revision as well as seeking cancellation of the bail order dated 18.04.2015 by virtue of Section 439 (2) Cr.P.C. The Court of the learned Additional Sessions Judge while allowing the revision, set aside the order of bail dated 18.04.2015. The same is subject matter of challenge in this petition by husband.

Upon hearing counsel for both the sides and on perusal of the records and as is there on the records, the petitioner/husband was allowed regular bail and counsel for the complainant could not convince this Court how there has been misuse of the concession of this bail by the accused/petitioner. The only grouse that has come about by the complainant side that the dowry articles were never recovered. However, it is duly conceded at the bar that there has been agreement dated 02.02.2015 between the parties which was the

fulcrum, on the basis of which, this concession was given to the accused/husband. It needs to be kept in mind that unless or until there are strong circumstances, *prima facie*, the intention to show that the accused is likely to misuse the concession of the bail by either fleeing from justice or tampering and influencing the witnesses and the evidences or that is being on bail, would not be commensurate with the fair dispensation of justice, then only the Court needs to cancel a bail already granted to an accused, even if it is there has been violation of the agreement between the parties does not *ipso facto* leads to the comments of this Court. The bare perusal of the impugned order rather reflects total non-application of mind by the Court below.

Learned counsel for the complainant/respondent No.2 had made statement that as per the instructions received, the parties have again settled their dispute and he does not oppose the grant of the relief in this petition.

Keeping in view, what has come about and discussed the impugned order, certainly, is wrong appreciation of the law and the learned Additional Sessions Judge has gone beyond the purview and powers of the Revisional Court, in holding it so, thus, necessitating setting aside of the impugned order, whereby, the present petition is allowed and the orders of bail dated 18.04.2015 is hereby ordered to be restored.

The present petition stands disposed off accordingly.

08.11.2019
Neha

(FATEH DEEP SINGH)
JUDGE

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