

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-54186 of 2018

Date of Decision: 09.05.2019

Sukhwinder Kumar

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

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

Present:- Mr. Arpan Sabharwal, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

Mr. Rajiv Joshi, 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.318 dated 12.11.2018 under Sections 406, 498-A IPC registered at Police Station Phillaur, District Jalandhar.

As per the FIR, which was registered at the behest of complainant-respondent no.2, wife of the petitioner, the marriage of petitioner and respondent no.2 was solemnised on 05.04.2015, in which, more than Rs.10 lakhs were spent. Sufficient gold ornaments weighing about 15 Tolas were given to the accused. Though initially, the behaviour of petitioner and his family members was cordial, but after some time, they started harassing the complainant by pointing out faults in the articles of

dowry and taunted her. The petitioner-husband took her ATM card and used to withdraw her whole salary. She was not given any amount for her day to day expenses. There is a specific allegation in the FIR that in the month of May, 2016, the husband, in-laws and brother-in-law of the complainant raised illegal demand of a bullet motorcycle and cash amount of Rs.5 lakhs for settlement in abroad. The whole family was involved in the demand of dowry. A daughter was born on 09.09.2016 to the complainant. She had made telephonic calls to the petitioner before her delivery to come present, but neither the petitioner nor his parents listened to the request of the complainant. Even after the birth of the child, no one came to see her from the side of her in-laws. Despite the complainant approached her in-laws for rehabilitation, they flatly refused to rehabilitate her. Thereafter, the petitioner filed a petition for custody of the child, where the complainant appeared. The complainant filed an application for compromise, but the petitioner did not appear on any hearing. Thereafter, the complainant filed a complaint on 21.11.2017 under the Domestic Violence Act, which was compromised on 06.07.2018 and she accompanied the petitioner to Kirpa Nagar. But the petitioner, in a conspiracy, did not keep the complainant in the family and took her to a rented accommodation. The petitioner used to come only in the night and he used to live with his parents throughout the day. The in-laws started interfering in the married life of the parties. The precise allegation against the petitioner is that he demanded a Bullet motorcycle and an amount of Rs.5,00,000/- so that he can apply to go abroad.

Learned counsel for the petitioner has argued that the allegations levelled against the petitioner are totally false and frivolous and the FIR has been lodged with an intention to harass the petitioner and his family members. There is no truth in the allegations, as levelled in the FIR. The compromise entered between the parties clearly reveals that the complainant-respondent no.2 and the petitioner agreed to take a separate accommodation and respondent no.2 took all her dowry articles including the gold ornaments, to the rented accommodation. No recovery is required to be effected. The complainant used to misbehave with the parents of the petitioner. It was the complainant who left her matrimonial home and went to live with her parents, whereas the petitioner has filed a petition under Section 9 of the Hindu Marriage Act, 1955 so as to rehabilitate her, but still, she filed a complaint against the petitioner under the Domestic Violence Act.

Learned counsel for the complainant-respondent no.2 has argued that there is clear demand of a Bullet motorcycle and Rs.5 lakhs by the petitioner, so as to settle abroad. The compromise so entered was just an eyewash, so that the complainant could withdraw the cases, but the harassment continued. He has further submitted that the gold articles as well as household articles including furniture etc. are yet to be recovered in the case.

I have heard learned counsel for the parties.

This Court vide order dated 07.12.2018 had referred the matter to the Mediation and Conciliation Centre. Pursuant to that, the order dated 02.04.2019 does reflect that the parties were interacted at sufficient length

and since they had shown their inclination to stay together in a rented accommodation, the case was adjourned to 09.05.2019. However, at the same time, SHO, Police Station, Phillarur was directed to depute a lady Constable, who shall visit the residence of the petitioner and respondent no.2 every week, preferably on Sunday, so as to keep a watch on the conduct of the parties. Learned State counsel has apprised this Court that despite the fact that the parties are staying together in one house, their relations never remained cordial.

The marriage between the parties was solemnised on 05.04.2015 and out of this wedlock, a daughter was born, who is with respondent no.2-complainant. There are allegations against the petitioner and his family members of taunting the complainant over quality and quantity of the dowry articles and giving beatings to her. The petitioner never gave money to the complainant for her daily expenses. The demand of motorcycle and Rs.5 lakhs is specific.

Considering the nature of allegations so levelled by the complainant against the petitioner and her in-laws within a short span of marriage and the arguments raised on behalf of the complainant as well as the State that recovery of gold articles and other household articles is yet to be effected, no ground is made out to admit the petitioner/husband on anticipatory bail.

Accordingly, the present petition is dismissed.

May 09, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No