

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101

CRM-M No.32873 of 2020 (O&M)

Date of Decision: November 02, 2020

Jaspal Singh,

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR JUSTICE SUDIP AHLUWALIA

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Mr. B.S. Sewak, Additional Advocate General, Punjab.

SUDIP AHLUWALIA, J. (Oral)

Case has been taken up through video conferencing in view of the outbreak of Pandemic COVID-19.

CRM No.26447 of 2020

This application has been filed for placing on record Forensic Expert Report dated 20.10.2020/the Translated transcripts of the recorded telephonic conversation as Annexure A-1.

For the reasons mentioned in the application, which is duly supported by an affidavit, the application is allowed and Forensic Expert Report dated 20.10.2020 as Annexure A-1, is taken on record.

CRM-M No.32873 of 2020

1. This petition has been filed for grant of Anticipatory Bail to

the petitioner in case FIR No.166 dated 30.07.2020 under Sections 363, 366, 376 IPC, 1860 dated 30.07.2020 registered at Police Station Maur, District Bathinda.

2. Gist of the FIR as alleged by the complainant happens to be that the petitioner became intimate with her and on his repeated asking, she left her house and accompanied him to Chandigarh on his representation that their marriage would be got registered there. During their stay in Chandigarh, the petitioner had physical relations with the complainant against her wishes on his representation that they will both get married soon, after which on 28.07.2020 he also took her to the Court for solemnization of marriage. However, the complainant then came to know that the petitioner was already married with one Veerpal Kaur of Akliia. In this manner, she alleged that the petitioner had cheated and allured her with the false promise of a marriage, which she subsequently discovered to be an invalid one and he had thus, physical relations with her against her will.

3. Ld. Counsel for the petitioner submits that he has been wrongly framed in the FIR and draws attention of the Court to the fact that admittedly the complainant is a woman having crossed the age of majority, and nowhere in FIR it has been alleged that she was subjected to any kind of force at any stage.

4. In the opinion of the Court, however, the vital question to be considered is whether the complainant had permitted the petitioner to be physically intimate with her voluntarily, and also gone through the ceremonies of a marriage, after having already known about the fact of his

previous marriage. This is so because in case there was any element of mis-representation or willful suppression of this vital fact by the petitioner before entering into his marriage with the complainant, it cannot be said that she necessarily agreed to the physical intimacy with him, with her free consent.

5. In this connection, Ld. Counsel for the petitioner on 16.10.2020 had sent up a phone recording showing the purported conversation between his client and the complainant, and English translation/transcript of the same has been placed on record today.

6. Reading of the conversation as noted therein does not indicate either the specific date on which it took place, nor any talk by the complainant which might suggest that she was already aware about the factum of the petitioner's previous marriage before consenting to become intimate with him on his promise of marrying her, can be deciphered from the transcribed conversation.

7. Ld. Counsel for the petitioner has also drawn attention to Annexure P-2 which happens to be a Panchayati Compromise entered between him and his previous wife Veerpal Kaur, which would go to indicate that she had agreed to dissolution of her marriage with the petitioner, and had no objection to his getting married elsewhere. In the opinion of this Court, however, even this Compromise relied upon by the petitioner is inconsequential because it goes to indicate the settlement of the dispute between the petitioner and his first wife, whereas the actual aggrieved person in the present FIR happens to be the complainant, whom the petitioner had married subsequently.

8. For the aforesaid reasons and in the totality of the circumstances at this stage, this does not appear to be a fit case to grant the extraordinary relief of Anticipatory Bail to the petitioner, considering the gravity of the offences involved.

9. Dismissed.

(SUDIP AHLUWALIA)
JUDGE

November 02, 2020
sonia arora

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