

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-2563 of 2021 (O&M)

DECIDED ON: 1st MARCH, 2021

Harpreet Singh

.....PETITIONER

VERSUS

Rajesh Kumari and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. P.K.S. Phoolka, Advocate for petitioner.

Mr. Pankaj Garg, Advocate for respondent No.1.

Mr. Harsimar Singh Sitta, AAG Punjab

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition under Section 438 Cr.P.C. in complaint case No. 976 dated 9.5.2016 under Sections 376, 420 IPC pending before Judicial Magistrate Ist Class, Mansa.

The facts are that the complainant filed an application dated 11.4.2016 against the petitioner. The allegation were that the petitioner was maintaining physical relationship with her on the pretext of marriage and subsequently, the complainant came to know that the petitioner is already married. The matter was inquired into. Harpreet Singh (petitioner) joined the inquiry and his statement was recorded. In the inquiry, it was found that the petitioner was married about 9 years back i.e. in 2007. The complainant and her father were having visiting terms and hence they knew the petitioner. The complainant had filed an application under Section 125 Cr.P.C. for maintenance against the petitioner in the Court of Sub

Divisional Judicial Magistrate Guruharsahai. The complainant never joined the inquiry to present her version. It was recommended that the application be filed.

It would be pertinent to note here that in an application filed for maintenance, the case of the complainant was that she was in live-in-relationship with the petitioner. The petition was not pursued and ultimately was dismissed in default on 4.12.2017. The present complaint case was filed on 9.5.2016.

Learned counsel for the petitioner submits that the complaint is filed only with an endeavour to humiliate and harass the petitioner for extracting money. The petitioner is married person and is having a family. The petitioner has already faced inquiry and as also litigation by way of maintenance petition. It is further submitted that without establishing any cause of action, the litigation is filed in various District for example the maintenance application was filed in Fazilka, and the present complaint is filed at Mansa.

Learned counsel for the respondent No.1/complainant submits that the petitioner maintained relationship with the complainant for almost eight years on the pretext of marriage.

Reply has been filed by State of Punjab and same is taken on record. Learned State counsel opposes the prayer for anticipatory bail.

There is no doubt that the allegations made in the complaint on the cursory look appears to be serious. On considering the matter in entirety, the picture that emerges may not be that sharp. The application filed in April 2016 was not pursued by the complainant. The petitioner was made to go through the process of inquiry but complainant never came to

support her version.

On a pointed query from the counsel for respondent No.1/complainant regarding reason for not pursuing the application, it was submitted that the matter was compromised. Latter the compromise was not adhered to hence the present complaint was filed. It is further stated that after compromise, the petitioner refused to visit the complainant.

There is no date of the compromise mentioned by counsel for complainant. Even in reply filed there is no pleading vis-a-vis the compromise.

It would be apt to note at this stage that while filing the present complaint the fact with regard to earlier application was withheld. Considering that the allegations date back to 2008, there is nothing for this Court to conclude that any custodial interrogation is required. Five years earlier, the complainant chose not to pursue the application making similar allegations. The petitioner is granted pre-arrest bail subject to his appearing before the Court concerned within a week. He shall be granted bail on furnishing of surety bond to the satisfaction of the Court. In case the petitioner fails to appear before the Court, the State would be at liberty to move an application for recalling of the order passed today.

However, it is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

1st MARCH, 2021

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**(AVNEESH JHINGAN)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>