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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.42092 of 2020
Date of Decision:17.09.2021

ASHWANI KUMAR
Vs
STATE OF PUNJAB

.....Petitioner
.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Manuj Nagrath, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G, Punjab.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.181 dated 05.11.2020 registered under Sections 67, 67(A) of Information and Technology Act, at Police Station Tibba, District Police Commissionerate Ludhiana.

Notice of motion was issued on 15.12.2020 and arrest of the petitioner was stayed on the contention of the learned counsel for the petitioner that the lodging of FIR is a counter-blast to the divorce petition filed by the petitioner in the month of August 2020. Petitioner and the complainant are not pulling well in matrimonial relationship. Offence under Section 67 of the Information and Technology Act is bailable, whereas Section 67-A of the Act is non-bailable, but the same has to be investigated by an Officer not lower than the rank of Inspector.

Petitioner showed his willingness to settle the matrimonial dispute with his wife.

Thereafter, on 02.02.2021, following order was passed:-

"The case has been taken up for hearing through video conferencing.

As per office report notice could not be issued to the respondent for want of process fee.

Let the process fee be filed within a period of one week. On doing so, fresh notice be issued to the respondent for 20.04.2021.

Interim order to continue."

Learned counsel for the complainant vehemently opposed this petition on the ground that the misdeeds committed by the petitioner are grave in nature and the case of prosecution would be proved on the basis of evidence likely to be led by the complainant on the basis of material available with her.

On the other hand, learned counsel for the petitioner denies the factum of uploading the objectionable photographs of the complainant on social media, rather submits that screen shots were obtained by the respondent herself from the mobile of the petitioner and thereafter, she herself deleted the same. There is denial to the assertion made by the complainant.

Learned counsel for the petitioner submits that in compliance of the order dated 20.04.2021, petitioner has joined the investigation to the entire satisfaction of the Investigating Officer.

Learned State counsel on instructions from Inspector Parmod Kumar submits that investigation of the case was conducted by Inspector only, therefore, the contention of learned counsel for the petitioner in the order dated 15.12.2020 is non-existent on the aspect of the investigation being

conducted by an Officer lower in rank to the Inspector.

However, learned State counsel further submits that the petitioner has joined the investigation on 26.04.2021 and has facilitated recovery of mobile which has already been sent to FSL for analysis and report. Presence of the petitioner is not required for any further investigation in the case.

In view of aforesaid factual position, the interim order dated 20.04.2021 is made absolute. Petitioner shall keep on joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands disposed of.

17.09.2021
Amandeep

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No