

**IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)
Appellate Side**

Present:

The Hon'ble Justice Rai Chattopadhyay

CRR 3134 of 2016

With

CRAN 1 of 2022

Saraswati Biswas

Vs.

State of West Bengal & Ors.

For the petitioner

: Mr. Prabir Majumder,
: Mr. S. Majumder,
: Ms. Sangita Chatterjee.

For the OP nos. 2 to 8

: Mr. Tulshi Das Ray,
: Mr. Himangshu Ghosh,
: Mr. Tirshankar Roy.

For the State

: Mr. Narayan Prasad Agarwala,
: Mr. Saryati Datta,
: Mr. Pratick Bose.

Hearing concluded on: 29/11/2022

Judgment on: 21/12/2022

Rai Chattopadhyay,J.:

1. In this revision, the wife is contesting with her husband and other members of her matrimonial family over an order of the Trial Court dated 19.12.2015.
2. The brief background of the case leading the Trial Court to deliver the impugned order may be narrated as below:-
3. The FIR lodged by the petitioner dated 20.07.2015 has narrated inter alia that the petitioner was married to opposite party no.2 on 12th August, 2013. Her family members had to remit adequate dowry at the time of marriage. Also that she had been subjected to physical and mental torture after marriage and finally she came to know that opposite party no.2 was married earlier and during subsistence of such marriage and by suppressing the said fact, he has persuaded the petitioner to marry him and ultimately married her in the guise of being a bachelor. On the allegations as above the said case was registered as Hanskhali Police Station Case No.327 of 2015 dated 20.07.2015 under Sections 498A/376/417/120B/34 of IPC.
4. Petitioner is aggrieved with the order of the Ld. Additional Chief Judicial Magistrate, Ranaghat, Nadia dated 27.07.2015 by dint of which allegedly on the very first day of production, the Magistrate has released all the accused persons/opposite parties on interim bail

without considering the facts and circumstances of the case and without even perusing the case diary.

- 5.** Petitioner went up to the Sessions Court with her prayer under Section 439 (2) Cr.P.C, 1973, for cancelling the order of bail granted by the Magistrate to the accused persons/opposite parties on 27.07.2015. The order of the Ld. Additional Sessions Judge in the said case, being Criminal Misc Case No.804 of 2015 dated 19.12.2015, is under challenge in this revision, in which the Ld. Additional Sessions Judge has rejected petitioner's prayer for cancellation of the bail order granted to the opposite parties by the Magistrate.
- 6.** Ld. Advocate on behalf of the petitioner categorically submits that the bail order granted by the Magistrate is erroneous, illegal and should not have been granted to the opposite parties on so far as, firstly, the nature of allegations against them is of sufficient gravity and seriousness and secondly, the Magistrate on the very first date without considering the facts and circumstances of the case and even without perusing the case diary for once has arrived at a decision to grant them bail which is perverse. Petitioner further submits that the Ld. Addition Sessions Judge has also erred in not considering that the grant of bail without perusing the case dairy and without considering gravity of the offence was perverse and not maintainable in the eye of law. It is submitted that the Additional Sessions Court misdirected itself in not considering the infirmity regarding the order of grant of

bail and has proceeded only on the ground of availability of no record of misuse of any liberty by the accused persons. It is submitted since the order of grant of bail was inherently bad in law, the same should have been cancelled by the LD. Additional Sessions Judge and the impugned order dated 19.12. 2015 may thus be set aside.

- 7.** Against the opposite parties, i.e, opposite party no.1 in particular, further argument has been advanced that there exists supervening circumstances of misuse by him, of the liberty granted under bail. Allegedly, the petitioner has been subjected to intimidation, coercion and force to depose falsely in court in this case, resulting into filing of a subsequent police case by her under Section 195A/341 IPC, on 11.09.2015. Investigation in that case has ended into filing of charge sheet by police on 10.09.2016. It is submitted that in connection with this case, bail prayer of the opposite parties was also rejected earlier by this Hon'ble court. On behalf of the petitioner, the following two judgments are relied on :

(i) Ram Chandra Singh vs. Savitri Devi & Ors, reported in (2003) 8 SCC 319.

(ii) Prahlad Singh Bhati vs. NCT, Delhi & Anr., reported in (2001) 4 SCC 280.

- 8.** The opposite parties are represented in this case who have put forward the fact that since after grant of bail they have been duly

attending the court proceedings and have not done anything which may be termed as misuse of the liberty granted to them by the court. According to them in view of such circumstances their personal liberty ought not have been curtailed by way of cancellation of bail order, and thus Ld. Additional Sessions Judge has rightly passed the order dated 19.12. 2015, which is challenged in this case.

- 9.** Secondly, it has been submitted that similar prayer of the petitioner has earlier been turned down by this court, by dint of order dated 01.06.2016. It is submitted that the petitioner shall have no scope any further to pursue her same prayer.
- 10.** Further it is submitted that, prayer for cancellation of the interim bail order of the opposite parties, as has been made by the petitioners in this case, would only be redundant, in so far as the Trial Court, by dint of its subsequent order dated 8.10.2015 has already confirmed the said interim bail of the opposite parties, earlier granted on 27.07.2015. Hence, prayer for cancellation of order dated 27.07.2015 is fallacious, without any similar prayer as to the order dated 08.10.2015.
- 11.** The other point of argument by the opposite parties is that, the petitioner would now be debarred from espousing the allegations as made in the FIR and also from urging the ground she has pleaded in this case of false representation by the opposite party no.1 to be an

unmarried person and alluring the petitioner for marriage with the opposite party no.1. Thus she is misusing and abusing the process of the court and that her assertions made in the maintenance case would render her allegations in this case, against the opposite party no.1 as redundant.

12. Several judgments have be relied on, which are mention below and shall be discussed at later state:-

(i) Ms. X vs. The State of Telangana & Anr. reported in (2018) 16 SCC 511.

(ii) Bhadresh Bipinbhai Sheth vs. State of Gujarat & Anr., reported in (2016) 1 SCC 152

(iii) Siddharam Satlingappa Mhetre vs. State of Maharashtra & Ors., reported in (2011) 1 SCC 694.

13. Ld. Advocate appears on behalf of the State and has left the matter at the discretion of the court. He has submitted the case diary in Court.

14. Mr. Prabir Majumder with Mr. S. Manumder and Ms. Sangita Chatterjee who are appearing for the petitioner, have taken the court through the various documents he has relied on in this case. Firstly, it would be the order of A.C.J.M., Ranaghat, dated 27.07.2015. 27.07.2015 was the first date of hearing in the court, when the accused persons put up the case record, to surrender in the court in

connection with the above police case. Court perused the FIR and the original death certificate of the first wife of the principle accused person, i.e, opposite party no.1 in this revision. Court noticed that on that date, his marriage with the complainant, i.e, petitioner no.1 subsists. Therefore, he discarded allegations of rape against the husband/opposite party no.1 here. Court also found the allegations of torture to be non specific and vague. These findings prompted it to allow 'interim bail' of the accused persons.

- 15.** He rests his argument on the point that by not perusing the case diary, before granting bail, the court has come to an erroneous finding, to the prejudice of the complainant. He submits that the facts of the case would require persusal of case diary, to assess the background of the case as well as the development in investigation, before enlarging the accused persons on bail. Thereafter, he has referred to the order dated 08.10.2015 of A.C.J.M., Ranaghat, to submit that there also the trial court committed error in rejecting his client's prayer under Section 437 (5) Cr.P.C, 1973, for cancellation of the interim bail and also confirming the said interim bail, by the said order. Finally, he has referred to the impugned order passed by the Additional Sessions Judge dated 19.12.2015, whereby his client's prayer under Section 439 (2) Cr.P.C, 1973 was rejected by the said order.

16. According to Mr. Majumder bail order was obtained by the accused persons under misleading representation as well as by suppression of facts. To elaborate as to the suppressions made, order dated 03.09.2015, of the Additional District Judge in MAT Suit No.190/2014, has been resorted to. It is shown that according to that order, marriage of opposite party no.1 with one Smt. Pipasa Biswas subsisted during the period from 23.02.2011 to 03.09.2015 and on 03.09.2015 the court granted decree of divorce. Thus, according to him, opposite party no.1 has committed fraud and suppression of fact of subsistence of his marriage, when actually he allured the present petitioner to tie a knot with him. Their marriage was solemnised on 12.08.2013. As an obvious consequence, opposite party no.1 allegedly established physical relations with the petitioner, by misrepresentation of fact and exercising fraud, which according to Mr. Majumder would amount to be 'rape' within the four corners of its definition, in law. He says that since the Magistrate did not peruse the case diary while granting bail, all these facts could not reveal to him, to the detriment and injury to petitioner's causes. Magistrate could also not gauge the gravity of the offence alleged against the accused persons. Thus grant of bail under misrepresented facts would only amount to its patent perversity and illegality, to require such a bail order to be cancelled as per law.

17. In furtherance of his argument as above, Mr. Majumder has also brought on record the supervening circumstances that has been said to have taken place, after grant of interim bail order by the court and confirmation thereof.

18. Allegedly, the opposite parties, that is opposite party no.1 in particular, has indulged into subjecting the petitioner with intimidation and threat to withdraw the criminal case lodged against them, and to depose falsely in the case, so as to safeguard themselves and resist proving the charges against them. Petitioner says that the same has led her to lodge another FIR against the opposite parties, on which has been registered under Sections 195A/34 IPC. Petitioner says that, investigation in the said police case, subsequently lodged by her under Sections 195A/34 IPC, has resulted into filing of charge sheet against all the accused persons, i.e, the opposite parties. Petitioner further shows from the records that the Hon'ble court has been pleased to reject anticipatory bail prayer of the opposite parties, in connection with the said police case, under Sections 195A/34 IPC. Mr. Majumder, argues that it is a overwhelming subsequent development, which would warrant cancellation of bail order of the opposite parties, in this case.

19. In the judgment of **Ram Chandra Singh vs. Savitri Devi**, as relied on by the petitioner, the Hon'ble Supreme Court adjudicated on the question of effect of fraud practice on the court. The Hon'ble Court

held that **“Fraud as is well known vitiates every solemn act. Fraud and justice never dwell together”**. Also that, **“It is well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against fraud”**. Mr. Majumder emphasises upon finding of court there that, **“It will bear repetition to state that any order obtained by practising fraud on court is also non est in the eye of the law”**. Mr. Majumder has relied on the finding of the court that **“In such an event also, the Court may have to find out a remedy which would be just and equitable”**.

20. In **Prahlad Singh Bhati**’s case, as relied on by the petitioner, the Hon’ble Apex Court was considering an appeal against an order of the High Court, rejecting appellant’s prayer of cancellation of bail of the accused persons therein. Accused persons who were initially charged under Sections 306 and 498A IPC and were granted bail, sought to obtain an order from the Sessions Judge, under Section 438 Cr.P.C, 1973, upon the charge sheet being filed against them under Sections 302, 406 & 498A IPC and consequent issuance of a non-bailable warrant against them. The High Court directed the accused persons to appear before the magistrate. The Hon’ble Court held:-

“8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused,

reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

10. Despite the involvement of important questions of law, the High Court failed in its obligation to adjudicate the pleas of law raised before it and dismissed the petition of the appellant by a one-sentence order. The orders of the Magistrate as also of the High Court being contrary to law are liable to be set aside.”

21. Thus Mr. Majumder has summed up that the opposite parties committed fraud upon court, while obtaining bail by suppressing the relevant, material and important facts related with this case, that there have been supervening circumstances sufficient enough to project gross misuse by them of the liberty granted under bail. That, according to the settled principles of law, these factors shall unerringly lead to curtailment of their liberty under bail by way of an order for cancellation of bail.

22. Mr. Tulshi Das Ray with Mr. Himangshu Ghosh and mr. Tirshankar Roy, are appearing for the opposite parties and have founded his arguments on the principles of law that the considerations for grant of bail and that of cancellation of the same may be divergent.

23. The judgments he has relied on are mentioned in this judgment earlier. The Hon'ble Supreme Court in **Ms. X's** case has been pleased to hold that :-

“Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted.

(1995) 1 SCC 349 Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are:

interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.” These principles have been reiterated by another two-Judge Bench decision in *Central Bureau of Investigation, Hyderabad v. Subramani Gopalakrishnan* and more recently in *Dataram Singh v. State of Uttar Pradesh.*”

24. The court came to the finding that :-

“For the above reasons, we hold that the order of the High Court allowing the application for bail cannot be faulted. Moreover, no supervening circumstance has been made out to warrant the cancellation of the bail. There is no cogent material to indicate that the accused has been guilty of conduct which would warrant his being deprived of his liberty. However, we are of the view that the quantum of the personal bond fixed by the High Court should be enhanced in the facts and circumstances of the case. We, accordingly direct that the quantum of the personal bond shall stand enhanced to Rs. 10 lakhs. Compliance shall be effected within two weeks from today. Subjected to the above modification, the appeal shall stand disposed of. Pending IAs, if any, shall also stand disposed of.”

25. The same Hon'ble court in the judgment of **Bhadresh Bipinbhai Sheth** has been pleased to hold that :-

“No doubt can linger after the decision in *Maneka Ghadhi v. Union of India*, (1978) 1 SCC 248, that in order to meet the challenge of Article 21 of the Constitution, the procedure established by law for depriving a person of his liberty must be fair, just and reasonable.”

And also

“(iii) It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion to grant bail must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.”

- 26.** Earlier to that, in 2011 in the case of **Siddharam Satlingappa Mhetre**, the Hon’ble High Court was discussing the role of Articles 21, 22 and 19 of the Constitution in protection of right to personal liberty. It has been held that a great ignominy, humiliation and disgrace is attached to arrest. In cases where the court is of considered view that accused had joint investigation and he is fully cooperating with the investigating agency and is not of like to abscond, in that event, custodial interrogation should be avoided, accused should be granted bail which after hearing public prosecutor, should ordinarily be continued till the end of trial.
- 27.** It is the contention on behalf of the opposite parties that since after grant of bail on 27th July 2015, the accused persons have fully cooperated with the investigation and has not in any way misused the

liberty granted to them under bail. By referring to the above decisions of the Hon'ble Apex Court, it has been urged that the verdict of the court has always been for personal liberty of human being as long as he is not misusing his liberty granted under bail and no exceptional supervening circumstance exist. According to Mr. Majumder, this is not a case of any such exceptionality, to warrant curtailment of personal liberty of his clients at this stage of proceedings. More so he has emphasis that the opposite parties are enjoying liberty under bail without any affect of misusing the same since 27th July, 2015, till date. Therefore, cancellation of their bail as prayed for at this belated stage shall prejudice them immensely on this point of effect of time gap between the order of grant of bail and its cancellation. Mr. Das Roy has relied on the judgment of **Bhadresh Bipinbhai Sheth** to highlight the following :-

“26. Having regard to the facts of this case which have already been highlighted above, we feel that no purpose would be served in compelling the appellant to go behind bars, as an undertrial, by refusing the anticipatory bail in respect of alleged incident which is 17 years old and for which the charge is framed only in the year 2014. The investigation is complete and there is no allegation that the appellant may flee the course of justice. The FIR was registered and the trial commenced in the year 2001; albeit with the charge framed under Section 506 Part II IPC, and during all these periods, the appellant has participated in the proceedings. There is no allegation that during this period he had tried to influence the witnesses. In the aforesaid circumstances, even when there is a serious charge levelled against the appellant, that by itself should not be the reason to deny anticipatory bail when the matter is examined keeping in view other factors enumerated above.”

- 28.** Certain other points have also be urged by Mr. Das Roy on behalf of his clients which are discussed earlier and shall be dealt with again later on this judgment. He has prayed for dismissal of petitioner's prayer for cancellation of bail.
- 29.** Sections 436 to 439 in Chapter 33 Cr.P.C, 1973, are the enabling provisions, empowering the court to grant bail to an accused person. A bail earlier granted to an accused, may be cancelled either under Section 437 (5) or 439 (2) Cr.P.C, 1973.
- 30.** In this case, the Trial Court and the 1st Appellate Court, both have rejected petitioner's prayer for cancellation of bail of the opposite parties, granted earlier. Hence, this court is moved to exercise its inherent and extraordinary powers under section 482 CrPC, to pray for passing of an appropriate order by way of reversing the impugned order of the Trial Court, to prevent abuse of the process of Court as well as to secure the ends of justice.
- 31.** Principles and laws governing cancellation of bail, are very well settled now. Considerable factors are two dimensional.
- 32.** Firstly, it is what has been argued by Mr. Das Ray, appearing for the opposite parties and also enunciated by the Courts, in the judgments referred to by him. That is, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. Also that when the accused has

joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided.

33. The other dimension is that brought out by Mr. Majumder, appearing for the petitioner in his argument and by the supporting judgments relied on by him.

34. In **Ram Chandra Singh**'s case, the Supreme Court has supportively relied on the judgment of **Rajesh D. Darbar vs. Narasingrao Krishnaji Kulkarni & Ors**, reported in **(2003) 7 SCC 219**. The principal as has been laid down is, that the well recognized maxim of equity, namely, 'actus curiae neminem gravabit' is unquestionable, which means an act of the court shall prejudice no man. The courts can take notice of the subsequent events, and can mould the relief accordingly. But there is a rider to these well-established principles. This can be done only in exceptional circumstances. This equitable principle cannot, however, stand in the way of the court adjudicating the rights already vested by a statute. Only an exceptional circumstance, like commission of fraud or misrepresentation upon the court would warrant the same.

35. It is a well settled principle of law that patent perversity or illegal or arbitrary nature of the order granting bail are amenable to such provision of the statute when cancellation of bail can be resorted to. By various judicial pronouncements the Apex Court has time and

again held that it is left to the exercise of sound judicial discretion of the Court to cancel and order of bail granted by the lower Court, where the investigation may compellingly require cancellation of bail.

36. Some of the authorities may be mentioned as follows:-

- i. Puran vs. Rambilas & Anr. reported in (2011) 6 SCC 338.**
- ii. St. of VP through CBI vs. Amarmani Tripathi, reported in (2005) 8 SCC 21.**
- iii. Dinesh M.N. (S.P.) vs. St. of Gujarat, reported in (2008) 5 SCC 66.**

37. So far as the facts of the present case is concerned, it is found that the opposite party no.2 has been alleged of falsely representing regarding his marital status and suppressing the fact of his existing marriage when he tied knot with the petitioner, and thus entering into marital relationship with her only fraudulently. This is also pivotal with respect to petitioner's case as her allegations are of practice of fraud committed upon court, by suppressing this vital and material fact, while securing an order of bail.

38. It has already been discussed earlier that, undisputed court records are available to show subsistence of marriage of the opposite party no.2, with one Pipasa Biswas from 23.02.2011 to 03.09.2015, during which time opposite party no.2 also married the present petitioner on 12.08.2013 allegedly, by suppressing his marriage with

said Pipasa Biswas. Petitioner/victim's statement is available along with her contentions in the FIR, to bring on record the said facts quite eloquently. The fact of subsistence of marriage of the opposite party no.2 with said Pipasa Biswas did not reveal at the time of surrender by the opposite parties in court or grant of bail to them by the court. The said fact was also not considered in the previous two rounds of litigation between the parties for cancellation of the said bail, where as the said fact as well as the fact of pendency of a suit for divorce, was within knowledge of the opposite party no.2, at the time of praying for bail.

- 39.** This should definitely be construed to be suppression of a material fact by opposite party no.2 before a court of law, as this was the specific allegation against him in FIR dated 19.07.2015 and also the information was within special knowledge of opposite party no.2. If one bear in mind the principles laid down by the Hon'ble Apex Court, for cancellation of bail, in the judgments mentioned above and considers the prayer of the petitioner, it would naturally follow that the liberty granted under bail to the opposite parties, would not be curtailed unless certain exceptional circumstance obviate the same, like obtaining an order from the court of law by exercising fraud and misrepresentation. Such practice would render the said order to be a perverse one and non est in the eye of law.

- 40.** In this case, intentional suppression of material fact by the opposite party no.1, while obtaining bail is grossly apparent. This would certainly amount to commission of fraud by opposite party no.2 upon the court and an extra ordinary circumstance, when his bail is liable to be cancelled. Perusal of case diary to grasp over the development in investigation would have been imperative in this case, which the trial court has failed to consider. Therefore, grant of an order of bail by the Trial Court, particularly to opposite party no.2, without considering the relevant facts and also the materials that might be available in case diary, renders the same order as perverse.
- 41.** The subsequent developments are also not to be overlooked in this case. Having regard to the FIR dated 19.07.2015, lodged by the present petitioner on 20.7.2015, alleging against the opposite parties an offence under Section 195A/34 IPC, investigation of which case has resulted into filing of a charge sheet by police, it can be said that allegations have been duly brought on record during investigation in that case, by strong prima facie material.
- 42.** In view of the facts in this case, as discussed above, the principles laid down in the judgments relied on by the opposite parties may not blindly be followed, in this particular case. As a matter of fact, these are now very well settled principles of law, that in protecting the right to personal liberty of a man and upholding the fundamental right as enshrined in the Constitution, a court will act with additional caution

and circumspection in the event of cancelling bail of a person and make its judgment first on the point that, if the person has misused the liberty granted under bail and cooperated in investigation or not.

43. On this and this for, the actions of the accused persons are not challenged.

44. However, on the question, if any fraud practice has been undertaken to obtain a bail order which would eventually render the same to be a perverse one and not-est in the eyes of law, the answer should be in affirmative in this case, on the discussions made earlier. Accused persons are guilty of a conduct of suppression of material fact, in a court of law. Therefore the principles laid down by the Hon'ble Supreme Court, in **Ram Chandra Singh's** Case (discussed earlier) shall squarely apply in this case. An order secured by practicing fraud on court, shall be treated as non-est in the eye of law. And suppression or misrepresentation of a related, relevant and considerable fact, as has been done in this case, as discussed earlier, would definitely amount to be practicing fraud on court. There has been prima facie ground to believe that the accused had committed an offence which is of grievous nature, which the court was misled to disbelieve, which fact would have otherwise led the court to adjudicate prayer of the accused persons on different parlance (Ref: **Prasanta Kumar Sarkar vs. Ashis Chatterjee (2010) 14 SCC 496**).

45. The event as alleged to have subsequently developed resulting into lodging of the FIR by the petitioner on 10.09.2016, being Hanskhali Police Station Case No.425/15 under Sections 195A/34 IPC, investigation of which case has resulted into filing of charge sheet by police, if taken on the face value of the same, shall prima facie constitute an offence by the opposite parties of infliction of threat and quash on and intimation upon the petitioner to force her to depose falsely in this case in court. This is so as finding prima facie materials during investigation police has submitted charge sheet in that case. This suggest about misuse of liberty granted to the opposite parties under the bail order. In various celebrated judgments, the Hon'ble Supreme Court has time and again decided the criteria for grant of bail to an accused person. Though, bail is granted primarily to ensure attendance of the accused person in case, but there are other very important consideration which should also be kept in mind by the court while granting of order of bail. Such being the trite law regular attendance of the opposite parties in court only cannot be termed as their being law abiding and loyal of the conditions of bail, if by some strong material which developed at a period subsequent to the bail it can be suggested that the accused person has in any way tried to interfere in to fair trial of the case. That should construe to be a supervening circumstance sufficient to warrant cancellation of his liberty granted under bail. In this case as it is discussed earlier the accused persons have misused the liberty granted under bail in the

same way. Thus, such compelling supervening circumstances would only require cancellation of their bail as per the settled principle of law.

46. The other points of challenge raised on behalf of the opposite parties do not appear to be sustainable on the ground that firstly, that the interim order of bail dated 27.07.2015, as well as the order of confirmation thereof dated 08.10.2015 are both challenged in the instant revision and the same cannot be said to be irregular on the ground of not challenging the confirmation order of bail. Secondly, that the claim of the petitioner in the proceeding under Section 125 Cr.P.C, 1973, has been duly dealt with by the court in the judgment thereof. Hence, the same bears no relevance with the instant prayer of the petitioner for cancellation of bail of the opposite parties.

47. Under such circumstances the order of the Ld. Additional Sessions Judge rejecting petitioner's prayer for cancellation of bail, so far as the opposite party no.2 is concerned, is found to be perverse, illegal, improper and liable to be set aside. Regarding other opposite parties who are other accused persons in the case and against whom the defacto complaint/present petitioner has brought forward the allegations of demand of dowry and physical and mental torture, I am of the opinion that since the FIR is not specific about the particular role played by each of the said opposite parties in the alleged infliction torture, the order granted by the Magistrate regarding them as well as

rejection of prayer for cancellation of their bail is found to be just and proper.

- 48.** All the discussions as above, lead to the finding that the impugned order dated 19th December, 2015 is liable to be set aside as against opposite party no.2.
- 49.** Order of bail granted in his favour dated 27th July, 2015 is cancelled, let him be immediately committed to prison.
- 50.** However, regarding opposite party nos.3 to 8, neither of the aforestated orders require any interference by this Court and the same are upheld with respect to opposite party nos.3 to 8.
- 51.** Hence, CRR 3134 of 2016 is allowed in part. Connected application being CRAN 1 of 2022 is disposed of.
- 52.** Parties are granted liberty to obtain server copy of this judgment, for any further reference, until certified copy of the same is obtained.

(Rai Chattopadhyay,J.)