



2024:DHC:1578



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 28.02.2024

+ **CRL.M.C. 6185/2022**

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..... Petitioner

Through: Mr.Kshitij Gaur, Adv.

versus

STATE AND ANR

..... Respondents

Through: Mr.Aman Usman, APP with
W/SI Khushi Singh.

Mr.D.V.Khatri and Ms.Ekta
Dhama, Mr.S.S.Khatri, Adv.
for the R-2.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for cancellation of the anticipatory bail granted to the respondent no.2 vide order dated 20.09.2022 (hereinafter referred to as the 'Impugned Order') passed by the learned Additional Sessions Judge (FTSC) (RC), East-District, Karkardooma Courts, Delhi (hereinafter referred to as the 'Trial Court') in FIR No.496/2022 registered with Police Station: Laxmi Nagar, New Delhi, under Sections 376(2)(n)/509 of the



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Indian Penal Code, 1860 (in short, 'IPC').

Case of the prosecution:

2. It is the case of the prosecution that a complaint was received from the petitioner herein that on 16.12.2019, she was married to the respondent no.2 in accordance with the Hindu Rites and customs. Subsequent to the marriage, there used to be constant taunts by the respondent no.2 as also by his family members with regard to the dowry items. There are allegations that the respondent no.2 used to beat her for the same. The petitioner / complainant further stated that the family members of the respondent no.2 used to state that the wedding between the petitioner and the respondent no.2 has not taken place at auspicious time/ 'Shubh moohrat' and because of which they used to make efforts to somehow break the marriage. They also put pressure on the petitioner and the respondent no.2 to take divorce.
3. It is further alleged that the respondent no.2 took signatures of the petitioner on certain papers forcefully, in spite of the objection of the petitioner and under the threat that she would be thrown out of the matrimonial home. She also names another person who was involved in the exercise of obtaining her signatures by force on certain stamp papers. She states that succumbing to the force, she agreed to give divorce to the respondent no.2 while they continue to stay together.
4. On 28.05.2022, the learned Principal Judge, Family Court,



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Karkardooma Court, Delhi granted a Decree of Divorce by mutual consent to the petitioner and the respondent no. 2.

5. The petitioner claims that she could not inform her family members about the divorce due to public shame. She took a house on rent and shifted there.
6. She further states that on 02.07.2022, the respondent no.2 came to her house and tried to force her to make physical relationship. On refusal, the respondent no.2 abused her and also threatened her that he has some videos and photographs of her, which are in the mobile phone of one of his friends and in case she refuses, the same would be leaked on social media. She states that between 02.07.2022 to 14.08.2022, the respondent no.2 made physical relations with her on various occasions and threatened her not to report the same to the police otherwise he would leak the videos that he has, on social media.

Impugned Order:

7. The respondent no.2 was granted anticipatory bail by the Impugned Order of the learned Trial Court, recording that the divorce was granted to the petitioner and the respondent no.2 on 13.07.2022, however, thereafter, they entered into 'live in relationship agreement' on 28.07.2022. The respondent no. 2 was directed to join the investigation as and when called. The petitioner challenges the said order.

Submissions of the learned counsel for the petitioner

8. The learned counsel for the petitioner submits that the learned



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Trial Court could not have bifurcated the dates in such a minute manner so as to find out which incident will fall in which period. He submits that the '*live in relationship agreement*' is not recognized in law and therefore, physical relationship made between the petitioner and the respondent no.2 during that period would also be unlawful and constitute an offence committed by the respondent no.2.

9. He submits that, in his own application, the respondent no.2 has stated that the relationship between the petitioner and the respondent no.2 has been severed only because of the petitioner refusing to have physical relationship with the respondent no.2. He submits that this also shows that the petitioner was being forced by the respondent no.2 to have physical relationship with him.
10. He submits that on behalf of the prosecution, a submission was also made before the learned Trial Court that the respondent no.2 is absconding and his phone was not responding as it was switched off. In spite of the same, the learned Trial Court has granted anticipatory bail to the respondent no.2.
11. He submits that if the anticipatory bail is granted on irrelevant considerations, and the relevant considerations are not taken into account, it would be a fit ground for cancelling the anticipatory bail.



Submissions of the learned counsel for the respondent no.2

12. On the other hand, the learned counsel for the respondent no.2 submits that admittedly, the parties were married. It is the own case of the petitioner, that the Decree of Divorce was granted to them on 13.07.2022, though the petitioner states that it was because they were to remarry. The petitioner also does not deny the execution of the '*live in relationship agreement*' that has also been placed on record. He submits that the complaint filed by the petitioner is only to extort money from the respondent no.2 and to blackmail him. He submits that the respondent no.2 has already parted with huge sum of money, that is, more than Rs.18 lakhs because of this blackmail. He submits that, therefore, there is no infirmity in the Impugned Order.

Conclusion and Analysis

13. I have considered the submissions made by the learned counsels for the parties.
14. As is evident from the complaint itself, the parties were earlier married till a Decree of Divorce was granted in their favour on 13.07.2022. Immediately thereafter, they entered into a '*live in relationship agreement*' dated 28.07.2022, which states that the parties are living together since 14.07.2022. The allegations made in the FIR are for the period commencing from 02.07.2022 till 14.08.2022, that is, the period covered by the marriage or by the '*live in relationship agreement*'. The petitioner did not make



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any complaint to the learned Family Court regarding any misdeeds of the respondent no.2 when the Decree of Divorce was being passed. The learned counsel for the respondent no.2 has submitted that the first motion for the same was filed in February, 2022, while the decree of divorce was granted in July, 2022. The charge sheet already stands filed.

15. The purpose of keeping the accused in custody is to ensure his presence in the trial. It is not stated that the respondent no. 2 is not appearing in the trial.
16. In my view, therefore, no fault can be found in the Impugned Order granting anticipatory bail to the respondent no.2.
17. Accordingly, the present petition is dismissed being devoid of any merits.
18. It is made clear that the observations made in the present order shall in no manner prejudice the case of either of the parties in the trial.

NAVIN CHAWLA, J

FEBRUARY 28, 2024

RN/ss

Click here to check corrigendum, if any