

(2008) 04 P&H CK 0157

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 10182-M of 2008 (O and M)

Gurdarshan Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: April 28, 2008

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 438, 482
- Negotiable Instruments Act, 1881 (NI) - Section 138
- Penal Code, 1860 (IPC) - Section 148, 149, 406, 420, 494

Citation: (2008) 3 RCR(Criminal) 165

Hon'ble Judges: Vinod K.Sharma, J

Bench: Single Bench

Advocate: C.M. Munjal, for the Appellant; K.D.S. Sidhu, DAG, Punjab, for the Respondent

Judgement

Vinod K. Sharma, J.

The petition u/s 438 of the Code of Criminal Procedure has been moved for grant of anticipatory bail to the petitioner in case FIR No. 298 dated 10.12.2006 under Sections 494, 406, 420, 506, 148, 149 IPC registered at Police Station Lambi District Muktsar.

The FIR against the petitioner reads as under :-

"To the SHO PS Lambi District Muktsar. Complaint against Gurdarshan Singh son of Gurdev Singh, resident of Kakhanwali now resident of Jeorj Vilhom STR 7B Hembarg Mani; (2) Gurdev Singh son of Sucha Singh; (3) Gurdev Kaur wife of Gurdev Singh; (4) Jeet Singh; (5) Resham Singh sons of Gurdev Singh residents of Village Kakhanwali Tehsil Malour (Muktsar); (6) Jasvir Kaur @ Gudi (daughter of Gurdev Singh) wife of Baldev Singh @ Bhola; (7) Baldev Singh @ Bhola resident of Village Husanr; (8) Soma Devi (daughter of Chhinder Pal Singh) second wife of Gurdarshan Singh son of Gurdev Singh; (9) Chhinder Pal Singh son of Puran Singh; (10) Sukhpal Kaur wife Chhinder Pal Singh resident of Smagh (Gidderbaha); (11) Sadhu Singh son of Chanan

Singh; (12) Darshan Singh; (13) Gora Singh son of Sadhu Singh; (14) Paramjit Kaur (mediator Gurdarshan Singh's Bhanji and Soma Devi's mami) wife of Darshan Singh son of Sadhu Singh, Residents of Village Bishanpura Tehsil Abohar (Ferozepur) and for registration of criminal case against the abovesaid accused for punishment. (1) That my daughter Paramjit Kaur was married with Gurdhan Singh son of Gurdev Singh, resident of village Kakhanwali on 17.2.1992 as per Sikh rites and at the time Gurdarshan Singh came to India from Germany. The said marriage was registered with the Registrar of Marriage, Abohar as per law. Photocopy is attached. (2) That at the time of marriage Gurdev Singh as Bridegroom along with his parents, brothers etc. other near relatives about 60 came in Barat. At the time of Doli her parents in the presence of my son Beant Singh and daughters gave one car worth Rs. Four lacs alongwith golden ornaments worth Rs. 88,000/- and Refrigerator worth Rs. 22,000/-, were handed over to Gurdev Singh, the clothes worth Rs. 55,600/- for my daughter were handed over to Jeet Singh and Resham Singh, gold worth Rs. 1,20,000/- was handed over to Paramjit Kaur, another gold worth Rs. 45,000/- was handed over to Gurdev Singh and Gurdev Kaur. Washing machine worth Rs. 15,000/- was handed over to Guddi @ Jasvir Kaur, they were made to understand that the entire articles are belonging to my daughter and same will remain with them as security. (3) That in-laws of my daughter are greedy persons despite my spending Rs. 9 lacs on marriage, but they used to taunt my daughter for bringing less dowry. Therefore, in order to save daughter's matrimonial house, I used to fulfil their all demands, but all the accused Nos. 1 to 7 when collected they again used to maltreat her in the greed of dowry. They always humiliate and harass me and my daughter even in my house when they used to come. Gurdarshan Singh never stopped to maltreat my daughter in Germany also. (9) That my daughter Paramjit Kaur visited India in July 2006 along with his two children. We convened a Panchayat consisting of Harnek Singh, Beant Singh and Jit Singh etc. alongwith myself and my daughter along with her children and went to village Kakhanwali and complained that your son is maltreating our daughter for the last so many times at Germany and demanding more money. Entire Panchayat requested, they also demanded money from us for car, we showed our problems that they did not hear us, then we demanded back our dowry articles which they refused to return. Rather they threatened that in case you may not have fulfilled their demand they will marry their son elsewhere. The Panchayat returned empty handed. (6) That in the month of September, 2006, Jit Singh son of Jeewan Singh resident of Bhakhra Wali, informed me that accused are going to fix the marriage of Gurdarshan Singh with one Some Devi daughter of Chhinder Pal of village Smagh. Then I took my son Beant Singh along with Darshan Kumar, Jeet Singh etc. and went to village Smagh, when Soma Devi her mother Sukhpal Kaur, father Chhinder Pal Singh and their sons with Nana Sadhu Singh, Mama Darshan Singh, Gora Singh, Mami Paramjit Kaur wife of Darshan Singh resident of Bishanpura were also present there. We informed them that my daughter Paramjit Kaur has already died with Gurdarshan Singh and is having two children also and this marriage took place in 1992. But they flatly refused that they

will perform this marriage at any cost. (7) That the accused got the said threat true by performing marriage of Gurdarshan Singh with Soma Devi, on 20.10.2006 in connivance with each other and in connivance with accused No. 2 to 14 as per Sikh rites in the Gurdawra at village Bhitiwala. They all knew that Gurdarshan Singh has already married with Paramjit Kaur and said marriage is still persists and in the life time of earlier wife it is an illegal act to perform second marriage in the presence of Holy Guru Granth Sahib. Lawans were performed by Ganthi Surinder Singh son of Narain Singh resident of Goniana. Sukhpal Kaur and Chhinder Pal Singh parents of Soma Devi gave Kanya Daan. Sadhu Singh Nana of Soma Devi who was also present also gave ashirwad to couple. The mamas of Soma Devi namely Darshan Singh and Gora Singh both residents of Bishanpura gave shagun to Soma Devi of maternal side. Parents, brother and other relatives of Gurdarshan Singh accepted Soma Devi as their new daughter-in-law and gave her blessings. Similarly, brother of Gurdarshan Singh, Jit Singh and Resham Singh also took active part in the second marriage of their brother. Guddi daughter of Baldev Singh resident of Husanar who is real sister of Gurdarshan Singh and is mother of Paramjeet Kaur who is mediator in this marriage. Said Guddi also took active part in the marriage and she also gave blessings to Soma Devi as wife of his brother-in- law and blessed her with clothes. During the marriage ceremony Harjinder Singh son of Jaswant Singh resident of Mithri Budhgir (Malour) and Balour Singh son of Jasvir Singh resident of Ghuman were also present and they gave us the information that the said marriage. Therefore, when I came to know about the said illegal marriage, I got the certificate of said marriage from the Manager of Gurdawara which is attached. (8) That keeping in view with illegal acts of access, I visited the maternal parents house of Soma Devi where accused No. 2 & 3 also met there, when I asked them that why they have performed the second marriage of their son Gurdarshan Singh in the presence of his first wife, they rather accepted this that they have committed an illegal act rather they openly declared that their son is residing at abroad and they can perform the marriage any time. (9) that the abovesaid accused Nos. 1 to 7 have misappropriated the dowry articles of my daughter and rather demanded more money. In addition to this all the accused in connivance with each other have performed the second marriage of Gurdarshan Singh. It is, therefore, prayed that all the abovesaid accused have grabbed the dowry articles of my daughter and also maltreated and harassed her on account of demand of more dowry and further they have performed second marriage of Gurdarshan Singh which is an offence therefore, action be taken against accused and FIR be registered and justice be given to us. Submitted by Karnail Singh son of Dasondha Singh resident of Village Rajanwali Tehsil Abohar District Ferozepur dated 25.11.2006, Police Action....."

2. The learned counsel for the petitioner contends that there are no allegations against the petitioner in the FIR and the allegations are that daughter of the complainant has been maltreated at Germany and therefore no case of harassment is made out within the jurisdiction of India, therefore, the petitioner is entitled to

grant of anticipatory bail.

This petition has been moved by the petitioner through attorney.

3. The learned counsel for the petitioner has placed reliance on the judgment of the Madras High Court to contend that power of attorney can file a petition on behalf of accused for grant of anticipatory bail. The reliance placed is on K. Gopalakrishnan - Petitioner v. Karunakarann rep. By the Power of Attorney Holder - Respondent, 2007 (1) RCR (Civil) 27 : 2007 (1) RCR (Crl.) 111 (Mad). However the petitioner has also placed reliance on the judgment of this Court in Crl. Misc. No. 13472-M of 2000 titled as Gurmit Kaur v. State of Punjab and another, decided on 6.9.2002 to contend that petition u/s 482 of the Code of Criminal Procedure filed by the attorney was entertained by this Court.

4. On consideration of the matter, I find no force in this petition. The contention raised by the petitioner on merit deserves to be rejected as on earlier occasion the petitioner had moved Criminal Miscellaneous No. 2409-M of 2008 seeking quashing of the FIR and said petition was withdrawn by the petitioner. The said petition was filed through power of attorney and therefore, the points raised herein cannot be a ground for grant of anticipatory bail. Even otherwise anticipatory bail on behalf of accused through power of attorney is not competent. The authorities relied upon by the learned counsel for the petitioner have no relevance to the points raised. The Hon"ble High Court of Madras in the case of K. Gopalakrishnan - Petitioner v. Karunakarann rep. By the Power of Attorney Holder - Respondent (supra) was dealing with a petition u/s 138 of the Negotiable Instruments Act. Similarly in Gurmit Kaur v. State of Punjab and another (supra) this Court has entertained a petition u/s 482 of the Code of Criminal Procedure on behalf of the General Power of Attorney.

No ground.