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(2008) 3 RCR(Criminal) 165

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) â€" Section 438, 482#Negotiable Instruments Act, 1881

(NI) â€" Section 138#Penal Code, 1860 (IPC) â€" 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.