

(2012) 09 P&H CK 0204

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-4837 of 2012 (O and M) and Criminal Miscellaneous No. M-7099 of 2012 (O and M)

Ajit Singh and Another

APPELLANT

Vs

State of Punjab
 Charanjit Singh Vs State of Punjab
and Others

RESPONDENT

Date of Decision : 03-09-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 120B, 406, 498A, 506

Citation : (2012) 09 P&H CK 0204

Hon'ble Judges : Paramjeet Singh, J

Bench : Single Bench

Advocate : M.K. Dogra, for the Appellant; Jaspreet Kaur, Assistant Advocate General, Punjab and Shri. GBS Dhillon, Advocate for the complainant, for the Respondent

Final Decision : Dismissed

Judgement

Paramjeet Singh, J.—This order shall dispose of CrI. Misc. Nos. M-4837 of 2012 (preferred by Ajit Singh and Smt. Kuldip Kaur) and CrI. Misc. No. M-7099 of 2012 (preferred by husband Charanjit Singh) filed u/s 438 Cr.P.C. for grant of pre-arrest bail to the petitioners in case arising out of FIR No. 5 dated 1.2.2012, registered at Police Station Women Cell, Ludhiana, under Sections 406, 498A, 506, 120B IPC. Learned Counsel for the petitioners contends that there are only general allegations against the petitioners in the petition, who are father-in-law and mother-in-law of Amandeep Kaur, daughter of the complainant and they have nothing to do with the demand of dowry because they will not be benefited by the demand of dowry. Learned Counsel for the petitioners further states that there is no medical evidence with regard to physical beatings and injuries. Learned counsel further contends that Kamaldeep Kaur and her husband were residing in a separate accommodation since November 2009 and the petitioners had disowned their son by way of a public notice issued on 23.2.2011, one year

prior to the registration of the FIR.

2. Learned counsel for the complainant, on the other hand, states that there are allegations of physical torture and beatings although there is no medical evidence to corroborate the same because Amandeep Kaur was prevented from moving out of the home for getting medical examination and with the passage of time, such injuries fade away and not traceable during medical examination. He further submits that since there are allegations of beating, the same certainly amount to torture and come within the definition of "harassment and mental torture". Learned counsel for the complainant further submits that petitioners, in a pre-planned move, have stated that their son Charanjit Singh has separated from them since November 2009 and they have disowned him and a public notice was issued on 23.2.2011. Learned counsel for the complainant has shown me a complaint dated 2.4.2011 which is jointly moved by the petitioners and their son Charanjit Singh. The said complaint was moved to the Senior Superintendent of Police, Mohali against the complainant. Photo copy of the same is taken on record. Learned counsel for the complainant submits that even the address mentioned in the complaint is the same where the petitioners are presently residing and, therefore, the plea of the petitioners that their son Charanjit Singh, along with his wife, was residing separate from them, is manifestly wrong.

3. Learned Counsel for the State, after seeking instructions from ASI Hardev Singh, states that part of the recovery has been made but still golden ornaments weighing about 44 tolas are yet to be recovered, besides the academic certificates and passport of Amandeep Kaur, which are in the custody of the petitioners and their son. Learned Counsel for the State has shown to me Annexure P-1 appended with the FIR wherein specific entrustment of articles has been made, which is the Istridhan of Amandeep Kaur.

4. I have considered the rival contentions of the parties and perused the police file produced during arguments as well as the paper book. Perusal of the police file reveals that there is specific entrustment of gold articles to the petitioners which are meant for Amandeep Kaur and the same have been intentionally retained and have not been returned to her. The entire recovery has not been effected, as stated by the Investigating Officer. The plea of the petitioners that his son was residing separate from them since November 2009 and they have issued disowning notice in the newspapers on 23.2.2011, is not acceptable in view of the fact that in the complaint moved to the SSP, Mohali, dated 2.4.2011, the name of petitioner No. 1 and that of his son Charanjit Singh are mentioned and the address has been written as the same, and this fact clearly indicates that they are residing jointly and Amandeep Kaur was residing with them. This plea at this stage cannot be appreciated on merits. Rather, prima-facie, it appears that public notice of disowning has been issued with an intention to wriggle out of the legal proceedings and this fact clearly indicates that they have pre-planned to save themselves and this is possible only when there is guilty conscious of a

person. Furthermore, recovery is yet to be effected. Therefore, no ground for the grant of pre-arrest bail is made out.

4. As far as petitioner Charanjit Singh is concerned, learned Counsel for the State, on instructions from the Investigating Officer, submits that he has not joined the investigation so far despite the opportunity having been afforded. The conduct of the petitioner does not entitle him to the grant of discretionary relief. Thus, the petition filed by him is also dismissed. Dismissed.