
(2010) 05 RAJ CK 0066

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Cancellation Application No. 6789 of 2008

Anjna (Smt.)

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-05-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 437
Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2011) 8 RCR(Criminal) 2975 : (2010) 4 RLW 3302

Hon'ble Judges : Mahesh Chandra Sharma, J

Bench : Single Bench

Judgement

Mahesh Chandra Sharma, J.—Heard learned Counsel for the complainant, learned PP as also learned Counsel for the respondent No. 2 and perused the entire material made available to me.

2. Brief facts of the case are that the petitioner filed a complaint before learned Additional Civil Judge (Junior Division) & Judicial Magistrate No. 4, Alwar against the respondent No. 2 and other family members. The learned Magistrate sent the aforesaid complaint u/s 156(3) Code of Criminal Procedure to S.H.O. Police Station Mahila Thana, Alwar for investigation. After receiving the aforesaid complaint S.H.O. Mahila Thana, Alwar registered an FIR No. 49/2008 for the offence under Sections 498A and 406 IPC.

3. Learned Counsel submits that on 21.7.2008 when this Court granted anticipatory bail to respondent No. 2, the learned Counsel appearing on behalf of respondent No. 2 made a statement that respondent No. 2 is ready to keep complainant petitioner Smt. Anjana and he is going together with her from the Court, which was also supported by Mr. B.N. Sandhu, learned PP assisted by Mr. Garg, learned Counsel appearing on behalf of the respondent No. 2. In the last the learned Counsel appearing on behalf of respondent No. 2 also submitted that if the respondent No. 2 fails to keep the complainant petitioner with him, then she is free to move an application for cancellation of bail. He further submits that

after granting anticipatory bail to respondent No. 2, the petitioner requested the respondent No. 2 to go with but he told that his near relative is hospitalized in the hospital and directed the petitioner to go at Alwar but he did not come at Alwar up-to till date. When the petitioner made call to the petitioner then respondent No. 2 gave reply that he is very busy and he will come soon. Respondent No. 2 also gave a threatening to the petitioner that if she files an application for cancellation of bail, then she will face great hardships. Lastly he submits that from the messages it is clear that the respondent No. 2 does not want to keep the petitioner with him. Thus, the anticipatory bail granted to accused respondent No. 2 be cancelled.

4. Learned PP assisted by Mr. Ashvin Garg, opposed the application for cancellation of bail, Mr. Garg, along-with the reply submitted preliminary objections mentioning therein that after grant of anticipatory bail to accused respondent No. 2 by this Court vide order dated 21.7.2008, challan was filed by the police in the court concerned. Upon this the respondent No. 2 moved for grant of regular bail u/s 437 Code of Criminal Procedure who vide order dated 6.1.2009 granted regular bail to him. Thus, in view of the order dated 6.1.2009 passed by the Court concerned, the present application for cancellation of bail has become in fructuous.

5. In support of his case Mr. Garg, learned Counsel appearing on behalf of respondent No. 2 has placed reliance upon a judgment delivered in the case of Prahlad and Another Vs. State of Rajasthan and Another, of the Judgment is relevant, which runs as under:

3. Under the circumstances, since a charge-sheet has already been filed and accused respondent No. 2 has also been granted bail by the Court concerned, no further interference is called for by this Court in the present application for cancellation of bail. The same is accordingly rejected.

6. Respondent No. 2 also filed additional affidavit in support of reply to the bail cancellation application in which he has specifically stated that after granting bail, the complainant petitioner has already filed four criminal cases against the respondent No. 2 and not only this, against mother-in-law and father-in-law FR was submitted by the police but complainant by exerting pressure has also managed to get order of cognizance against mother-in-law and father-in-law including the respondent No. 2. Thus, the application for cancellation of bail filed by the complainant petitioner be rejected.

7. From a bare perusal of the facts of the case, it is clear that after granting anticipatory bail by this Court, challan was filed by the police in the court concerned. Thereafter, the respondent No. 2 moved for grant of regular bail u/s 437 Code of Criminal Procedure who vide order dated 6.1.2009 granted regular bail to him, thus the anticipatory bail granted by this has become in fructuous. The facts of the present case and the judgment cited by learned Counsel for the respondent No. 2 of the case of Prahlad and Anr. v. State of Rajasthan and Anr.

(supra) are identical.

8. In the result, the application for cancellation of bail is devoid of merits and stands rejected.