
(2000) 01 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 9144-M of 1999

Chander Kanta Joshi and Another

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-01-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438, 438(2)
Penal Code, 1860 (IPC) — Section 498A

Citation : (2000) 2 DMC 384 : (2000) 2 RCR(Criminal) 624

Hon'ble Judges : K.S. Kumaran, J

Bench : Single Bench

Advocate : Sudhir Mittal, for the Appellant; S.S. Garg, for the Respondent

Judgement

K.S. Kumaran, J.—F.I.R. in question has been registered under Sections 498A, 406 and 34, IPC at Police Station City Gurgaon. The petitioners' application for bail in anticipation of arrest was disposed of by the learned Additional Sessions Judge, granting anticipatory bail to the petitioners No. 2 & 3 herein for a period of 15 days giving them liberty to move an application for regular bail before the Trial Court, with a direction to join investigation. But, so far as first-petitioner-Chander Kanta is concerned, the learned Additional Sessions Judge, Gurgaon dismissed her request for bail. Therefore, all the petitioners had approached this Court u/s 438, Cr.P.C. for bail in anticipation of arrest.

2. The FIR in question was registered at the instance of the second-respondent herein who is the father of Vandhna. Vandhna married Sailesh Joshi. The first petitioner-Chander Kanta is the mother, second petitioner-Shekhar Joshi is the brother and the third petitioner-Suman Joshi is the sister respectively of the said Sailesh Joshi. In the F.I.R. it has been alleged mainly as follows :

3. Vandhna and Sailesh were married on 13.5.1994 at Gurgaon. Vandhna reached Bombay on 15.5.1994. On 15.5.1994 the date of the first night Sailesh Joshi informed Vandhna that he was criminal. Vandhna was made to sleep in the kitchen. Whatever has been given to Vandhna as dowry was packed in boxes, the

keys of which are taken by mother-in-law Chander Kanta. When the mother-in-law saw the dowry, she started shouting and abusing Vandhna. The mother-in-law and sister-in-law of Vandhna started beating her and, tortured her without even giving food. On 10.12.1994, the complainant brought Vandhna to Gurgaon and at that time mother-in-law told the complainant that Vandhna should bring Rs. 15,000/- for delivery expenses. The mother-in-law used to throw out Vandhna whenever she was-sent to Bombay. Vandhna was thrown out of the house after beating on-9.1.1995 even though she was pregnant, The complainant's son-in-law was also turned out of the house by his parents and sister and others stating that she should bring a Hero Honda and Rs. 50,000/-. On 27.5.1995 Vandhna was sent back on the assurance of her husband. On 11.11.1995 also Vandhna was beaten and again thrown out of the house. On 15.12.1995, the complainant took on rent one room in, for the residence of his daughter and son-in-law and purchased all necessary goods. But accused No. 6 (not petitioner herein) instigated Sailesh Joshi to come to Rajasthan and, therefore, he gave up the job at Gurgaon. The mother-in-law of Vandhna came to Gurgaon and instructed him to give up the job and the house at Gurgaon. She also got the household articles loaded in a truck and returned to Bombay alongwith Vandhana, husband and the child. On one day Vandhna heard her mother-in-law saying that she (Vandhna) and her child should be pushed down from the fifth floor. When this was informed by Vandhana to her husband, he told her that he would take her to Gurgaon. Vandhna came with the child to Gurgaon but her husband told the complainant that he was suffering from very dangerous ailment and also that there is danger to Vandhana and her daughter at Bombay as his mother is greedy. Since then Vandhna has been living with the complainant.

4. I have heard the Counsel for both the sides and perused the record on file.

5. It is unnecessary to repeat the allegations in the F.I.R. The learned Counsel for the petitioner contends that except naming them in the F.I.R. there is no specific allegation against the petitioners Shekhar Joshi and Suman Joshi, who are the brother and sister respectively of Sailesh Joshi. He also contends that even from the allegations in the F.I.R. it is evident that Vandhana has been living at Gurgaon and at Bombay, Rajasthan and other places and that in December, 1995 the complainant himself had settled Vandhana and her husband at Gurgaon." According to the learned Counsel for the petitioner, the allegations against mother-in-law are related to the period when Vandhna stayed at Bombay and not at Gurgaon, and mere is no allegation that mother-in-law treated her cruelly at Gurgaon. But the learned Counsel for the State points out that the marriage had taken place at Gurgaon and Vandhna and her husband had lived at Gurgaon for some time. He also points out that the allegation is that the mother-in-law came to Gurgaon and instigated her son to leave Gurgaon and took all the household articles to Bombay also. He also contends that the dowry articles were given at Gurgaon. In these circumstances, I am of the view that the petitioner Nos. 2 and 3 are entitled to be released on bail in the event of arrest. But, in view Of the

specific allegations against first petitioner-Chander Kanta Joshi, this petition has to fail qua her.

6. Petition is allowed in part.

7. In the event of arrest of the second petitioner-Shekhar Joshi and third petitioner-Suman Joshi on the allegations found in the F.L.R. mentioned in this petition, they are ordered to be released on bail on their furnishing sufficient surety to the satisfaction of the Arresting Officer.

8. If their association is necessary for the purpose of investigation; the Investigating Officer shall issue them notice giving them sufficient time, and on such notice, they shall join investigation.

9. They should also abide by the provisions of Section 438(2), Cr.P.C.

10. But, this petition so far as the first petitioner-Chander Kanta Joshi is concerned is dismissed.