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**(2013) 12 DEL CK 0153**  
**In the Delhi High Court**  
**Case No : Criminal M.C. 3057 of 2013**

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| Ms. Shashi Gogia  | Vs | APPELLANT  |
| State and Another |    | RESPONDENT |

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**Date of Decision :** 13-12-2013

**Acts Referred:**

**Citation :** (2014) 1 AD 641

**Hon'ble Judges :** S.P. Garg, J

**Bench :** Single Bench

**Advocate :** Bhupender K. Tyagi and Party in Person, for the Appellant; M.N. Dudeja, App., Hasrat Ali, SI, CAW/Cell/East Respondent No. 2, for the Respondent

**Final Decision :** Disposed Off

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## Judgement

S.P. Garg, J.—Vide order dated 21.05.2013 in Bail Application No. 596/2013 the respondent-Anil Kishan Handa was granted conditional

anticipatory bail on payment of Rs. 2 lacs to the complainant within the stipulated period. The order reveals that the petitioner volunteered to pay

Rs. 2 lacs to the complainant without prejudice and subject to future adjustment towards dowry articles. However, he did not comply with the

condition and no payment was made to the complainant. The respondent has contended that his counsel Mr. Pramod Kr. Dubey on his own gave

the offer to pay " 2 lacs which was never agreed to by him. He has lodged a complaint with Bar Council on 29.06.2013. He is not liable to pay

any amount to the complainant and provisions of Section 498A IPC are not attracted. Reliance was place on Sujit Kaur Chaudhary And Ors. Vs.

State 2007 IX AD (Delhi) 4. Learned Additional Public Prosecutor has opposed the prayer and urged that no review of the order can be sought

at this stage. In Bail Application No. 596/2013 order dated 21.05.2013 was passed in the presence of the accused's counsel. During arguments

on the bail application, the respondent volunteered to pay " 2 lacs to the complainant without prejudice and subject to future adjustment towards

dowry articles. On his request, he was permitted to pay Rs. 50,000/- within 15 days and remaining amount of Rs. 1.5 lacs within three months

thereafter. At no stage the respondent complained if the offer to pay " 2 lacs was without his consent and against his wishes. Mr. Pramod Kr.

Dubey, Advocate, had no ulterior motive to make any such offer without his instructions. The accused availed the benefit/relief of anticipatory bail

but did not bother to comply with the condition of payment of Rs. 2 lacs to the complainant. He even did not move the court for

review/modification of the order. Only when the complainant moved for cancellation of bail, all these excuses were taken to avoid agreed payment.

The respondent cannot be permitted to avail the benefit of anticipatory bail and at the same time not to comply with the conditions imposed therein.

This conduct of respondent is not acceptable. The complainant had alleged that various dowry articles amounting to Rs. 10 lacs were given by her

parents at the time of her marriage. In the bail petition, the accused admitted total expenditure incurred by them to the tune of Rs. 2.5 lacs to Rs. 3

lacs. The complainant has given a long list of dowry articles given to her at the time of marriage. The respondent in his "admitted" list has disclosed

that number of articles including LCD Sony 31", Bed, dressing table, mattress, bridal lehnga etc. were given. Photographs, wedding card and other

documents on record prima facie reflect that it was not a simple marriage. No dowry articles have so far been returned to the complainant. The

respondent has alleged that dowry articles were taken away by the complainant in his absence. The complainant has denied it. Under these

circumstances payment of Rs. 2 lacs to the complainant without prejudice towards dowry articles cannot be termed unreasonable and exorbitant.

The respondent himself had expressed his desire to return the dowry articles including electronics items. It shows that the dowry articles are still in

his possession. The respondent/accused cannot be permitted to wriggle out of the offer made by him "Voluntarily" for getting anticipatory bail. The

respondent is given 15 days" time to comply with the order dated 21.05.2013 and to make the entire payment of "2 lacs to the complainant

through Investigating Officer failing which the anticipatory bail granted to him vide order dated 21.05.2013 will be deemed to have been cancelled.

2. The petition stands disposed of accordingly.