

Mayank Pathak Vs. The State

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Court : Delhi

Decided On : Nov-19-2014

Judge : Sunita Gupta

Appellant : Mayank Pathak

Respondent : The State

Advocate for Def. : Ms. Ritu Gauba, Mr. Sunil K. Mittal, Mr. Anshul Mittal

Advocate for Pet/Ap. : Mr. Ramesh Gupta

Judgement :

\$~ * + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision:

19. h November, 2014 BAIL APPLN. 1947/2014 MAYANK PATHAK Through :
Petitioner Mr. Ramesh Gupta, Sr. Advocate with Mr.Bhagat Sharma, Advocate
along with the petitioner (in JC) versus THE STATE Through : Respondent Ms.
Ritu Gauba, APP for State Mr. Sunil K. Mittal and Mr. Anshul Mittal, Advocates for
complainant CORAM: HON'BLE MS. JUSTICE SUNITA GUPTA

JUDGMENT

: SUNITA GUPTA, J.

1. By virtue of this application under Section 439 Cr.P.C., the petitioner seeks regular bail in case FIR No.386/2013 u/s 498A/313/406/34 IPC registered with

Police Station Rani Bagh, District North West.

2. It is submitted by Sh. Ramesh Gupta, learned senior counsel for the petitioner that the petitioner is in custody for the last 90 days. The petitioner never raised any demand of dowry. The complainant used to pressurise the petitioner to purchase his own house in Delhi or to get the property bearing No.BP-143, Shalimar Bagh, Delhi transferred in her favour. The present criminal proceedings is a dishonest and fraudulent design on the part of the complainant to achieve her illegal motive and design. On 6th February, 2013, the complainant had visited Dr. Krishna Sangwan at Rohtak and ultrasound report of the complainant was OK and on 10th February, 2013, the ultrasound was perfect. So there is no question of causing any bleeding. Although it is alleged that the abortion took place on 10th February, 2014 but the documents placed on record show that till 23rd February, 2014, everything was normal. No document has been filed when abortion took place. It is yet to be seen whether the offence under Section 312/313 is made out or not. Under the circumstances, the petitioner cannot be kept in jail for an indefinite period. As such, he be released on bail.

3. The application is vehemently opposed by Ms. Ritu Gauba, learned Additional Public Prosecutor for the State duly assisted by Sh. Sunil K. Mittal, Advocate for the complainant. It was submitted that the petitioner and his family members made several demands and father of the complainant gave around Rs. 25 lacs to them on different dates pursuant to the demand. On 6th February, 2013, on the occasion of birthday of the petitioner, he demanded i-phone from the complainant and when she failed to give the same, she was given beatings causing bleeding resulting in miscarriage. It was further submitted that all the stridhan articles are lying with the petitioner and despite the fact the efforts were made by Honble Supreme Court also where the anticipatory bail application was filed by the petitioner, he remained adamant and did not return any of the articles. It was further submitted by the counsel for the complainant that the police officials are colluding with the family members of the petitioner inasmuch as despite serious allegations against the father, mother and sister of the petitioner, no effort is being made to arrest them.

4. I have heard the learned counsels for the parties.

5. As per the averments made in the FIR, the complainant was married to the petitioner on 6th May, 2011. Dowry was given by the parents of the complainant as per their status. The petitioner asked the father of the complainant to arrange for the honey moon trip as he faced some financial difficulty. On 19th May, 2011 on the occasion of petitioners fathers birthday, a RADO watch was demanded. On complainants mothers birthday, the petitioner refused to take her to her parents house. Subsequently on various occasions like Nirjala Akadashi, silver utensils and other articles were given which were not liked by the petitioner and his family members. There was illegal demand on the birthday of mother-in-law of the complainant. On the birthday of complainant, her father arranged a party when the petitioner slapped her in the presence of her parents as they did not give him any valuable gold article. Money was demanded for celebration of festival of Lohri and thereafter on husbands birthday. Complainants father arranged a trip to Goa, however, the petitioner was still not satisfied and beat her mercilessly. On 19 th May, 2012 the complainant came back to her parental home and filed a complaint against the petitioner and others vide DD No.62B dated 24th May, 2012 at Police Station Rani Bagh. However, on the promise made by the petitioner and his family members not to harass the complainant, she joined matrimonial home on 3rd July, 2012. However, things did not improve. The complainant was beaten on the Dushehra festival. The demand of Rs.25 lacs was made as the petitioner and his family wanted to clear their dues of the market. When the complainant refused to get such a huge amount from her father, her father-in-law started beating her in the presence of the petitioner and mother-in-law. Thereafter on 27th November, 2012, the father of the complainant paid a sum of Rs.25 lacs to her father-in-law in the presence of her husband. Finally on the pretext of shifting, the complainant was asked to take a room on rent at Rohtak so as to clear her MD Examination. At that time, all her articles and jewellery were kept by the petitioner and his family members. While she was at Rohtak, her husband demanded i-phone on his birthday on 6th February, 2013 and when she failed to give the same, she was beaten due to which she started bleeding and could not save her pregnancy. As per the medical record, on 6th February, 2013, complainant visited Dr. Krishna Sangwan at Rohtak due to bleeding and threatened abortion.

6. Needless to say, the allegations are very serious in nature. Record reveals that the petitioner filed application for grant of anticipatory bail, which was dismissed by learned MM, Sessions Judge as well as the High Court. The petitioner also filed Special Leave Petition before Honble Supreme Court and a perusal of the order dated 21st July, 2014, goes to show that efforts were made to reconcile the parties for an amicable settlement of the disputes but the same met with failure mainly due to denial and refusal of the petitioner and his family to return the complainants stridhan, which according to the complainant, is valued more than Rs.50 lacs. The Special Leave Petition was dismissed. Thereafter the petitioner surrendered before the learned Metropolitan Magistrate. His police remand was taken and at that time also only few articles comprising of seven pieces of silver bowls, one window AC, 5 male suit lengths, two pieces of jacket and one piece of umbrella were recovered. Charge sheet has been filed before the learned Trial Court but the charge has not yet been framed. It is yet to be seen whether the allegations attract the provisions of Section 312/313 IPC or not.

7. Under the circumstances, at this stage, the petitioner is not entitled to be released on bail.

8. The application is dismissed. It is, however, made clear that nothing stated herein shall tantamount to an expression of opinion on merits of the case.
(SUNITA GUPTA) JUDGE NOVEMBER19 2014 rs

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