

Subhash Chand Gupta and anr Vs. State

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Court : Delhi

Decided On : May-10-2013

Judge : R.V. Easwar

Appellant : Subhash Chand Gupta and anr

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Reserved on:8th May, 2013
Date of Decision:

10. h May, 2013 % + BAIL APPLN. 776/2013 SUBHASH CHAND GUPTA & ANR Petitioners Through Mr Vimal Puggal, Adv. versus STATE Respondent Through Ms Jasbir Kaur, APP with SI Mahabir, PS Begum Pur Mr Atul Bandhu, Adv. with complainant CORAM: MR. JUSTICE R.V. EASWAR JUDGMENT R.V. EASWAR, J.: This is an application filed under Section 438 Cr.P.C. for grant of anticipatory bail in FIR 130/13 dated 22.4.2013 registered under Section 498A/325/34 of the IPC at PS Begumpur, Delhi. The applicants are Subhash Chand Gupta and his wife Nirmal Gupta. Subhash Chand Gupta is the father-in-law and Nirmal Gupta is the mother-in-law of the complainant Alpana.

2. Alpana, the complainant, married Dr. Ankur Gupta in the year 2011 and was residing in the matrimonial home. A daughter was born to them, who is now about 10 months old. The complainant has alleged that soon after the birth of the daughter her husband and in-laws started harassing and ill- treating her. They

threw her out of the matrimonial home on 16.1.2013. However, due to the intervention of well-wishers/family members, she was taken back into the matrimonial home on 27.3.2013. On 20.4.2013 at about 10.30 p.m. the complainants husband demanded that she bring `12 lakhs or grant him divorce. When she refused, she was beaten by Ankur Gupta. The mother-in-law Nirmal Gupta also is stated to have joined in the beating of the complainant. It is further alleged in the complaint that Ankur Gupta tried to kill the complainant by strangulation and putting pressure on the neck, when Nirmal Gupta told him that since the complainant had not made out any suicide note she should not be killed at that time. At this, Ankur Gupta released the complainants neck, but slapped her several times at her left ear; Nirmal Gupta also slapped her several times and gave a blow at her stomach. Soon the other applicant i.e. Subhash Chand Gupta (father-in-law of the complainant) also joined and kicked the complainant and dragged her along the stairs by holding both her legs. The complainant thereafter called the emergency No.(No.100) and a complaint was registered.

3. The complainant was taken to the hospital by the police where her medical examination was conducted and the opinion of the ENT specialist was taken. He opined that the loss of hearing of the left ear of the complainant was due to the injuries and slapping which were grievous in nature.

4. Ankur Gupta, the husband of the complainant was arrested by the police on 22.4.2013 and is stated to be in judicial custody.

5. The present bail application has been filed by the father-in-law and mother-in-law of the complainant. The bail application moved by them before the Additional Sessions Judge, Rohini Courts, Delhi was rejected by order dated 3.5.2013. The Additional Sessions Judge has rejected the application considering the nature of the allegations against the applicants as also the injuries of the complainant as reflected by the MLC. In support of the anticipatory bail application, it is contended before me that the applicants are respectable members of the society holding decent posts of Vice Principals of schools and that the present complaint is a counter-blast to the complaint made by Subhash Chand Gupta on 18.1.2013 against Alpana (the present complainant) and her family members in which he

alleged that Alpana and her family members were creating unnecessary hurdles and trying to humiliate the entire family of the applicants and that Alpana did not participate in the family and daily activities which threw a heavy burden on Nirmal Gupta. It was also alleged in the complaint that Alpana had left the matrimonial home two days earlier taking all her valuables and jewellery to her parental home. It is further stated in the complaint that when Subhash Chand Gupta tried to contact the parents of Alpana, they started abusing and extending threats. It is submitted on behalf of the applicant that the complaint of Alpana is a counter-blast to the complaint of Subhash Chand Gupta and there is no truth therein. It is further stated that the applicants will join the investigation as and when required and that nothing is to be recovered from them. On these grounds, anticipatory bail is sought for both Subhash Chand Gupta and his wife Nirmal Gupta.

6. On the other hand, the learned APP strongly opposed the bail application. She submitted that an offence under Section 498A and Section 325 has been made out; prima facie, it is serious in nature and therefore, no bail should be granted. She further contended that the investigation is at an early stage and custodial interrogation of the applications may be required. She submitted that the offences alleged to have been committed by the applicants are very serious in nature, requiring investigation.

7. On a careful consideration of the rival submissions and the material on record, I do not think this to be a fit case for grant of anticipatory bail. The allegations made in the complaint are prima facie serious in nature. The lower court has found from the MLC that the complainant Alpana suffered loss of hearing of her left ear i.e. traumatic perforation which is a grievous injury. Moreover, the complaint also alleges that her mother-in-law (Nirmal Gupta, one of the applicants) had told her son Ankur Gupta who is the husband of Alpana that he should not strangle her because they were yet to secure a suicide note from Alpana. This allegation, coupled with the beatings which Alpana has received from her husband as well as the in-laws, as per the complaint, require further investigation. The injuries received by Alpana need examination and for this purpose further investigation/interrogation may be required. At this early stage of investigation I do not think that the applicants can be discharged on anticipatory bail. The

anticipatory bail application moved by Subhash Chand Gupta and Nirmal Gupta, for the aforesaid reasons, is rejected. (R.V. EASWAR) JUDGE MAY 10.2013 vld

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