

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

MISC. CRIMINAL CASE NO.17691 OF 2020

(Rafique Ahmed and Others vs State of Madhya Pradesh)

Indore, Dated 08.07.2020

Mr. Z.A. Khan, learned senior counsel along with Mr. Dharmendra Khanchandani, learned counsel for the applicants through Video Conferencing.

Mr. Chetan Jain, learned public prosecutor for the non-applicant/State through Video Conferencing.

Mrs. Geetanjali Chourasia, learned counsel for the complainant/objector through Video Conferencing.

Arguments heard.

ORDER

This is first anticipatory bail application under Section 438 of Code of Criminal Procedure, 1973 filed by the applicants namely; applicant No.1-Rafique Ahmed, applicant No.2-Raeesa Bi and applicant No.3-Mohd. Raza as they are apprehending their arrest in connection with Crime No.391/2020 registered at Police Station-Vijay Nagar, District-Indore (MP) for the offence punishable under Section 498-A of Indian Penal Code, 1860, Section 3/4 of Dowry Prohibition Act, 1961 and Section 3/4 of The Muslim Women (Protection of Rights on Marriage) Act, 2019.

On the last occasion, learned counsel for the objector had submitted that she would file certain documents and now the aforesaid documents are placed on record.

Submissions were heard.

As per prosecution story, Nikah of complainant took place with Hasan Multani on 03.11.2019 (complainant's husband). However, it appears that some dispute arose due

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to which she came back/turned out and the complainant started staying in her parental house. As per complainant, on 29.03.2020, her husband pronounced Talaq thrice on telephone and thereafter on 13.04.2020, an FIR was lodged by the complainant against her husband.

Learned senior counsel for the applicants has invited the Court's attention towards the complaint filed by husband fearing some action on the part of complainant and this complaint of husband was filed on 21.03.2020. The document which the complainant has filed is an application made to the Superintendent of Police, Indore, requesting immediate arrest of the applicants in this matter. This document is dated 15.06.2020. Learned senior counsel submits that the applicants have filed the anticipatory bail application on 10.06.2020 and this application has prompted the complainant to file the application which is dated 15.06.2020.

Learned counsel for the objector as well as learned counsel for the State have read over the FIR and stated that after the Nikah when the complainant got pregnant her mother-in-law i.e. applicant No.2-Raeesa Bi started alleging that complainant got pregnant much earlier and the child does not belong to her son and started asking for money saying that the complainant has not given enough dowry to the applicants and, thus, as per complainant, demand of dowry was the main factor.

Per contra, learned senior counsel for the applicants

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submits that as per complainant due to her early pregnancy her character was being doubted and the marriage was annulled by her husband then how the demand of dowry could have been made after pronouncement of divorce ? He further submits that FIR has been lodged more than a month after the complainant went back to her parental house.

Heard both the learned counsel including the learned counsel for the complainant/objector.

The provisions of The Muslim Women (Protection of Rights on Marriage) Act, 2019 are applicable only against the husband and not against in-laws. It is clear that there is no physical cruelty and it also appears that early pregnancy became the cause of dispute and as per complainant there was a telephonic call in which husband of the complainant has sought to terminate the marriage.

There appears to be substance in the submission that demand of dowry after pronouncing divorce is not possible.

Looking to all these factors, along with belated FIR, a case is made out for grant of anticipatory bail to the applicants, but without making any opinion on merits of the case, the application filed by the applicants namely; applicant No.1-Rafique Ahmed, applicant No.2-Raeesa Bi and applicant No.3-Mohd. Raza are allowed and it is directed that in the event of arrest of applicants in connection with the aforesaid crime number, the applicants shall be released on bail upon their furnishing a personal bond in the sum of **Rs.50,000/-(Rupees Fifty Thousand) each** with one local

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solvent surety each in the like amount to the satisfaction of Arresting Officer. The applicants shall appear before the Investigating Officer (IO) on **14.07.2020** and shall assist the IO in further investigation process and they shall continue to do so whenever it was required by the IO.

This order shall be governed by the conditions No.1 to 3 of sub-section (2) of Section 438 of Criminal Procedure Code, 1973.

With the aforesaid, this application stands allowed and is disposed of in above terms.

Certified copy as per Rules.

Arun/-

(SHAIENDRA SHUKLA)
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