

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20478 of 2015

Arising Out of PS.Case No. -440 Year- 2013 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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1. Rosaheb Ansari @ Rosaheb Nat son of Julum Ansari @ Julum Nat
resident of Village - Laptahi, P.S. - Manuapul, District - West
Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Jhuna Khatoon wife of Rosaheb Ansari and daughter of Rozdin Mian
resident of village - Nakardei, P.S. - Nakardei, District - East
Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. Dr. Rabindra Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 07-09-2015 The petitioner being husband of the complainant is apprehending his arrest in a complaint case wherein processes were directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner that petitioner claims to have given oral divorce to the complainant on 11.06.2013 and has filed Matrimonial Suit No. 343 of 2013 for declaring the complainant as divorcee whereas two complaint cases being Complaint Case No. C-360 of 2013 and the present one being Complaint Case No. C-440 of 2013 were filed on 29.06.2013 and 21.10.2013. Hence, reconciliation does not appear to be feasible.

It is submitted by learned counsel for the complainant that matrimonial suit for divorce was filed much after filing of the present complaint where false statement has been made with regard to oral divorce. The complainant denies the claim of oral divorce.

Considering the fact that accusation of oral divorce is in dispute, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on provisional anticipatory bail for six months on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Raxaul, East Champaran at Motihari in connection with Trial No. 3646 of 2014, arising out of Complaint Case No. C-440 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let learned Court below conduct an enquiry with regard to the factum of divorce. If learned Court below comes to the conclusion that petitioner has divorced the complainant then provisional bail of the petitioner will be confirmed by learned Court below. But, if learned Court below comes to the conclusion otherwise then petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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