

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36149 of 2014

Arising Out of PS.Case No. -791 Year- 2013 Thana -BHABHU(KAIMUR) COMPLAIN C District-
BHABHUA (KAIMUR)

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Jitendra Sharma

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan

For the Opposite Party/s : Mr. Khurshid Anwar(App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

2 20-02-2015

Heard.

Undisputedly the complainant was married to the petitioner in April, 2012 and the couple were blessed with a daughter who incidentally was handicapped. The allegation is that on account of giving birth to a handicapped girl baby, the petitioner and his family members heaped all sorts of tortures upon her besides accusing her of being a dyan as also having given birth to a handicapped child. The last allegation was that when the child fell ill, the petitioner and accused Dulari Devi the mother of the petitioner, took the lady to Kudra hospital and left the lady and the little child there and fled away.

Submissions have been many fold and also that the petitioner was ready to take the lady back into his family fold which appears recorded also by the learned Sessions Judge,

Kaimur at Bhabua in his rejection order. The reason which was recorded by the learned Sessions Judge in his rejection order was that the lady was apprehending ill-treatment and torture at the hands of the petitioner.

In the opinion of this Court a married lady may have a very valid reason to refuse to live with the husband if the husband is found keeping a concubine or having taken in a mistress. This is explicitly clear from Section 125 Cr.P.C. However, the aspect of rehabilitation of the lady and the little handicapped child is very much occupying the mind of this Court and in that view of the matter, the Court directs the learned SDJM, Kaimur at Bhabua who is still handling Complaint Case No.791C of 2013 to admit the petitioner to bail on the day he appears and files a petition. The petition of the petitioner to be filed as bail petition must contain undertaking that he shall take the lady back, then only the petitioner shall be admitted to bail provisionally by fixing a date of sufficient period so as to affording issuance of notice to the lady for calling her into the Court of the learned SDJM, Kaimur at Bhabua. The petitioner shall appear and on that day to take back the lady to his house and shall further file undertaking that he shall treat the lady with respect and kindness and shall never compromise with her dignity as the lady of his house. Any breach

in the condition which has to be obtained by the learned SDJM, Kaimur at Bhabua shall be enough for the Court below to assume that this order had not been passed by this Court and it shall be enough for the Court on that account to remand the petitioner. If the petitioner gives the undertaking and the complainant refuses to go with him, then the bond shall be confirmed.

With the above observation, this petition stands disposed of.

(Dharnidhar Jha, J)

B.Kr./-

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