

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44549 of 2015

Arising Out of PS.Case No. -561 Year- 2009 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Savitri Devi W/o Late Gaya Prasad Dhwan
 2. Rakhi Dhawan D/o Late Gaya Prasad Dhawan Both are Resident of Mohalla - Kath Gachhi Sukhmana Mahadeo, Pach Mahla, Dist.-Gaya

.... Petitioners

Versus

1. State of Bihar
2. Smt. Mamta Dhawan W/o Sanjeev Kumar Dhwan, D/o Shree Bhola Nath, Kapoor, R/o Mohallah & Nadra Ganj, Palpar, P.S.-Civil Line, Dist.-Gaya`

.... Opposite Parties

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with

Criminal Miscellaneous No.45938 of 2015

Arising Out of PS.Case No. -561 Year- 2009 Thana -GAYA COMPLAINT CASE District- GAYA

- =====
1. Rajeev Kumar Dhawan Son of Late Gaya Prasad Dhawan
 2. Ashis Kumar Dhawan Son of Late Gaya Prasad Dhawan Both residents of Mohalla - Kathgachhi, Sukhman Mahadev Padhmahala, P.S. - Civil Lines, District - Gaya.

.... Petitioners

Versus

1. The State of Bihar.
2. Smt. Mamta Dhawan Wife of Sri Sanjeev Kumar Dhawan resident of Mohalla - Kathgachhi, Sukhman Mahadev Padhmahala, P.S. - Civil Lines, District - Gaya. Daughter of Sri Bhola Nath Kapoor, Resident of Mohalla - Nadraganj, Pulper , P.S. - Civil Lines, District - Gaya.

.... Opposite Parties

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Appearance :

(In both the cases)

For the Petitioner/s : Mr. Dheeraj Kumar, Advocate

For the State : Ms. Nirmala Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 05-11-2015 Heard learned counsel for the petitioners in both the applications and learned APP for the State.

The petitioners have moved this Court praying for



anticipatory bail in a complaint case under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act without the precondition mentioned in the order dated 10.6.2015 passed by the Sessions Judge, Gaya.

The petitioners are mother-in-law, two brothers-in-law and sister-in-law (Nanad) of the complainant.

It is submitted by learned counsel for the petitioners that in the facts and circumstances of the case the anticipatory bail application filed by the petitioners was allowed by learned Sessions Judge but it was stated that immediately after release the petitioners shall offer the complainant to come to their house and live with them and if she chooses to do so then they will regularly appear in the court below with the complainant on each and every date fixed at the interval of a month to report about leading of matrimonial life and on completion of the said period of six months if the matter is settled and the complainant finds good place in her matrimonial home then will confirm the bail of the petitioners. Otherwise on refusal of the complainant bail is to be confirmed even before completion of the period of six months.

It is submitted by learned counsel for the petitioners that the complainant and her husband were living separately at Varanasi and since there was dispute between them the husband of

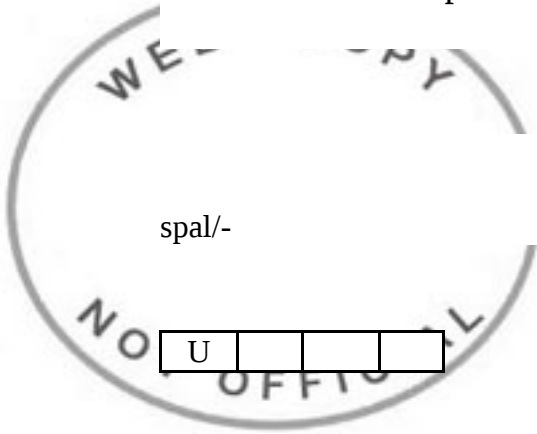


the complainant had filed a divorce petition being Case No. 83 of 2009 in the court of the Principal Judge, Family Court, Varanasi and by order dated 23.5.2011 the petition was decreed and the marriage between the complainant and her husband was dissolved under Section 13 of the Hindu Marriage Act. It is also submitted that the complainant has also filed a divorce petition in the court of the Principal Judge, Family Court, Gaya being MTS No. 36 of 2014, which is still pending.

Learned counsel submits that in the aforesaid circumstances it was not proper for the learned Sessions Judge to have imposed the condition as has been done in the impugned order.

On a consideration of the facts and circumstances of the case, this Court is in agreement with the submission of learned counsel for the petitioners. The impugned order dated 10.6.2015 of the learned Sessions Judge, Gaya is modified to the extent that the petitioners shall be released on anticipatory bail on their furnishing bail bonds as directed therein but without any further condition attaching to the said release on bail except the other applicable conditions as laid down under Section 438(2) of the Code of Criminal Procedure. Let the petitioners, namely, (1) Savitri Devi, (2) Rakhi Dhawan, (3) Rajeev Kumar Dhawan and

(4) Ashis Kumar Dhawan, surrender in the court below within a period of four weeks from today for the said purpose.



(Ramesh Kumar Datta, J)

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