

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18668 of 2015

Arising Out of PS.Case No. -176 Year- 2014 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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Lal Babu Ram, son of Awadhesh Ram, resident of Village- Dhamasang,
P.S.- Rahui, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. Indu Devi, wife of Ram Bachan Ram,
3. Sarita Devi, daughter of Ram Bachan Ram, Both residents of Village
Belchhi, P.S.- Chandi, District- Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Upadhyay, Adv
For the Opposite Party/s : Mr. M.Dayal(App)
For the O.P. No. 2 & 3 : Mr. Anil Kumar Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 01-09-2015 Heard learned counsel for the parties.

The petitioner is facing prosecution for the offence punishable under Section-498A of the Indian Penal Code, and learned counsel for the petitioner has submitted a tragic explanation of the petitioner that his wife-Opposite Party No. 3 and his Mother-in-Law, the complainant-Opposite Party No. 2, are hell bent to create rift in the married life of the petitioner by even forcing the petitioner to change his vocation. Learned counsel for the petitioner further explains that the petitioner is working as a labourer in a brick kiln but the wife-

Opposite Party No. 3, does not want the petitioner to work in such brick kiln and the petitioner for saving his marriage, would be ready to leave to work in brick kiln.

Learned counsel for the Opposite Party No. 3, submits that Opposite Party No. 3, is having two children with the marriage of the petitioner and is absolutely at such cross road of life, from where, she cannot dictate any terms much less forcing the petitioner to choose another vocation, inasmuch as, all that she expect that her husband should support her and her children and of course not making demand of dowry as was her experience in the hands of the petitioner.

In the considered opinion of this Court, the issue of rift in marriage, seems to be not on account of the reasons which are coming on record. Normally, after having two children, the demand of dowry by the petitioner seems to be improbable if not absurd. Similarly, the wife cannot clearly dictate terms on the husband in respect of choosing his vocation specially



when in the inquiry under Section-202 Cr.P.C, it has come on record that the petitioner was a driver of a Tractor and his being actually working in the brick kiln as a labourer can also not be a ground for eruption of disputes in the marriage.

In such a situation, when the petitioner and Opposite Party No. 3 are now ready to live together, the Mother-in-Law, Opposite Party No. 2, should herself stay away from the married life of the petitioner and Wife-Opposite Party No. 3, so that they can at least make an honest effort to save their marriage as also life of their two children.

Considering all these aspect, this Court would direct that the if petitioner namely, **Lal Babu Ram** surrenders within a period of four weeks from today before the Court below and gives a written undertaking that he would keep his Wife-Opposite Party No. 3, with all respect and dignity and is also ready to take care of the two children born out of the said marriage with



Opposite Party No. 3, he would be released on provisional bail for a period of one month on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **Judicial Magistrate, 1st Class, Hilsa, Nalanda** in connection with **Complaint Case No. 176C of 2014** on the following terms and conditions:-

(i) The petitioner on being granted provisional bail shall immediately take his wife Opposite Party No. 3 together to his place of abode and keep her with due care and dignity and an information to this effect shall be given by the petitioner in writing before the Court below.

(ii) If however the petitioner does not take his Wife-Opposite Party No. 3, along with him, within a period of two weeks from the date of his being granted provisional bail, his provisional bail on expiry of the period of four weeks shall automatically stand cancelled and he would be taken into custody.

(iii) If on the other hand, the Court below after making inquiry from the Wife-Opposite Party No. 3, finds that she is living peacefully with

the petitioner, the provisional bail of the petitioner shall be extended for a period of three months.

(iv) After expiry of period of three months the petitioner and Wife-Opposite Party No. 3, shall again appear before the Court below and the trial Court will make inquiry from Wife-Opposite Party No. 3, and on finding that she was not subjected to any further cruelty, mental or physical by her husband or his family members, the provisional bail of the petitioner shall be extended, now for a period of six months.

(v) After expiry of aforesaid period of six months, the petitioner and Wife-Opposite Party No. 3, shall again appear before the Court below and the trial Court will make similar inquiry from Wife-Opposite Party No. 3, as to whether she was subjected to any cruelty, mental or physical by her husband or his family members and in the event of a satisfactory answer of Opposite Party no. 3, the provisional bail of the petitioner shall be confirmed.

(vi) It is also made clear that if the Wife-Opposite Party No. 3, at any point of time during the pendency of the present criminal case alleges that she was subjected to any cruelty, mental or physical by her husband or his family members,

the court below after making necessary enquiry and giving an opportunity to the petitioner, is satisfied as with regard to such allegation of Wife- Opposite Party No. 3, the bail of the petitioner shall be cancelled forthwith.

(vii) That both the bailors will be close relative of the petitioner who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(viii) That the bailors shall also state on affidavit that they will inform the Court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(ix) That the petitioner will be well represented on each and every date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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