

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52621 of 2015

Arising Out of PS.Case No. -123 Year- 2015 Thana -MAHILA P.S. District- BHOJPUR

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Rabindra Mishra @ Rabindra Nath Mishra, son of Shyam Bahadur Mishra, resident of Village-Mishrawalia, P.S.-Shahpur, District-Bhojpur at Ara, at present residing at House No. 89, Flat No. 203, Shanti Nagar Lilua, P.S. – Lilua, Hawarrah, Kolkata, West Bengal

.... Petitioner/s

Versus

1. The State of Bihar
2. Riya Mishra, wife of Shri Ravindra Mishra, daughter of Shri Kanhaiya Tiwari, presently residing at Village-Sundarpur, Bajra, P.S.-Bihia, District-Bhojpur at Ara

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Chaubey
For the Opposite Party/s : Mr. Binod Kumar -Iii(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 10-11-2015 The petitioner being husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 498A, 406/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

The basis accusation is of torture for non-fulfillment of dowry demand.

It is submitted by learned counsel for the petitioner that petitioner admits his marriage with the informant and has filed Matrimonial Suit No. 90 of 2015 for restitution of conjugal right on 12.03.2015 and thereafter the present F.I.R was registered on 09.07.2015. A statement to that effect has been made in para 7 of the petition which reads as follows:-

“That, the petitioner is always

willing to keep the informant/Opposite Party No. 2 with honour and dignity and has also filed a case for restitution of conjugal life vide Matrimonial Case No. 90 of 2015 on 12.03.2015 before Family Court. Ara but the informant/Opposite Party No. 2 refused to restore the conjugal relationship with the petitioner. The copy of Matrimonial Case No. 90 of 2015 would be filed at the time of hearing of the case, if required.”

It is further submitted that similar was the stand of the petitioner before learned Court below but the informant filed Matrimonial Case No. 149 of 2015 with a prayer for divorce.

Considering the filing of the restitution case prior to lodging of the present case and filing of the matrimonial suit for divorce by the informant, 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 anticipatory bail 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, Ara in connection with Bhojpur Mahila P.S. Case No. 123 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The present order will not preclude the parties to resume the conjugal life. If the informant files such an

application before learned Court below then learned Court below will issue notice to the petitioner when the petitioner will be obliged to comply the undertaking given before this Court.

Shageer/-

(Dinesh Kumar Singh, J)

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