

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25222 of 2015

Arising Out of PS.Case No. -168 Year- 2014 Thana -KANKARBAGH District- PATNA

Prashant Singh Son of Dr. Prabhat Singh Resident of A4/104, Subhash
Nagar Housing Complex, Post - Prabhash Nagar, P.S. Sri Rampur, District -
Hoogly, West Bengal

.... Petitioner/s

Versus

1. The State of Bihar.
2. Soni Kumari Singh Daughter of Satendra Narayan Singh Resident of
Mohalla - F/431, P.C. Colony, P.S. Kankarbagh, District - Patna

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Soni Shrivastava, Adv.
For the Opposite Party/s : Mr. M.Dayal (APP)
For the O.P. No.2 : Mr. Shravan Kumar, Sr. Adv.
Mr. Dinesh Maharaj, Adv.

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 26-08-2015 Heard learned counsel for the parties.

The petitioner, apprehending arrest for offence under
Section 498(A), 341, 323, 379, 504 & 34 of the Indian Penal
Code, has a cut out defence that he always was/is willing to fulfill
the obligation of a husband but, then, it is the opposite party no.2
who has been creating problems as a result whereof not only this
false case has been filed but also his whole life has been put to
jeopardy leading to filing of a divorce case by the petitioner.

On the other hand, the opposite party no.2, through
her learned senior counsel Sri Shravan Kumar, has sought to
convey this Court that the behavior of the petitioner and his family

members was horrible in which no respectable girl will live in the hostile atmosphere created in the house of the petitioner.

This Court will not like to go into the aspect as to who is at fault but, then, at the end of the day, this much becomes clear that the marriage of the petitioner with the opposite party no.2 has failed and there is no possible solution coming out for their living together.

As a matter of fact, the case was heard yesterday also and when it appeared that there is no prospect of any compromise as with regard to reviving the threat's of the marriage already becoming sore even due to filing of this case and a matrimonial case for divorce being Matrimonial Case No. 24 of 2014 pending in the court of learned Additional District and Sessions Judge, 1st Court at Serampore, Hooghly, by the petitioner, this Court had asked learned counsel for both the parties to find some amicable solution by way of one time settlement.

Today, Mrs. Soni Srivastava, learned counsel for the opposite party no.2, comes out with a suggestion that the petitioner for parting his ways for once and all will be ready to pay a sum of Rs. 13 lacs which will give a sum of Rs. 10,000/- per month to the opposite party no.2.

Mr. Shravan Kumar, learned senior counsel appearing

for the opposite party no.2, on the other hand, has submitted that a sum of Rs. 25 lacs was spent in the marriage and, therefore, this offered sum of Rs. 13 lacs seems to be pittance.

In the considered opinion of this Court, what amount was spent in the marriage or what could be the possible way of settling the issue in a case like this will have to be always guided by the agreed terms and conditions of settlement. Today, all of a sudden, the life of the opposite party no.2 is in jeopardy. It is true that the husband also is suffering but, then, he, being a male, can definitely have his other pasture but, then, normally an Indian lady will hardly get any chance of revival after failure of her first marriage.

Taking all these aspects into consideration, this Court would find that the end of justice would be met if the petitioner pays a sum of Rs. 15 lacs to the opposite party no.2, whereafter, not only the present criminal case but also the divorce case filed by the petitioner at Hooghly shall be disposed of in terms of the consent recorded above.

Keeping all these aspects into consideration, this Court would direct the petitioner, namely, Prashant Singh to surrender before the court below within a period of two months from today with a bank draft of Rs. 15 lacs in the name of the opposite party



no.2 and if he does so, the court below shall grant bail to the petitioner 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, Patna in connection with Kankarbagh P.S. Case No. 168 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) The draft of Rs. 15 lacs shall be immediately handed over to the opposite party no.2 or her counsel, whereafter, the opposite party no.2 shall be under obligation to appear in the pending divorce case filed by the petitioner being Matrimonial Case no. 24 of 2014 pending in the court of Additional District and Session Judge, 1st Court at Sri Rampur at Hooghly and file an application for mutual divorce and the aforesaid court, after following the prescribed procedure of Section 13B of the Hindu Marriage Act, shall pass an appropriate order as with regard to mutual divorce of the petitioner and the opposite party no. 2 preferably within a period of seven months from the date of presentation of such an application for mutual divorce filed by the opposite party no.2.
- (ii) Upon grant of mutual divorce, it shall be the duty of the

opposite party no.2 to file an application in the court below for withdrawing the criminal case which must be done within a period of one month from the date of grant of mutual divorce.

- 
- (iii) It is, however, made clear that violation of the aforesaid jointly agreed terms and conditions by any of the party shall constitute contempt of this Court and an appropriate action will be taken against the erring person.
 - (iv) That both the bailors will be a close relative of the petitioner, who will undertake 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.
 - (v) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.
 - (vi) 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.

(vii) That the petitioner will be well represented on each and every date in course 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.

With the aforesaid observations and directions this application is disposed of.

(Mihir Kumar Jha, J)

Rishi/-

U		T	
---	--	---	--