

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22378 of 2015

Arising Out of PS.Case No. -1453 Year- 2012 Thana -COMPLAINT CASE District- KISANGANJ

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Md. Mustaque Alam@ Md.Mustaque S/o Tafejul resident of vill. -
Jamanigurri, P.S. Kurlikot, Distt. - Kishanganj

.... Petitioner/s

Versus

1. The State of Bihar
2. Mahfuja Khatoon W/o Md. Mustaque, D/o Najrul resident of vill. -
Jamanigurri, P.S. Kurlikot, Distt. - Kishanganj At Present resident of
Aamtola, P.S. Thakurganj, Distt. - Kishanganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Sinha

For the Opposite Party/s : Mr. Veena Kumari Jaiswal (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 12-10-2015

Heard learned counsels for the petitioner and the

State.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code.

The prosecution case is that the complainant divorced her first husband on 16.05.2010 and thereafter performed marriage on 21.05.2010 with the petitioner, but thereafter petitioner started inflicting torture.

It is submitted by learned counsel for the petitioner that even assuming the own admission of the complainant that she divorced her first husband on 16.05.2010 then the marriage was not possible on 21.05.2010 within the stipulated Iddat period. As per petitioner the marriage was performed on 16.05.2010 and the petitioner gave Talak as per Muslim rituals on 05.08.2010.

The counsel for the complainant submits that the complainant denied the factum of Talak by the petitioner.

Considering the fact that the factum of Talak is in dispute, let the above named petitioner be released on anticipatory provisionally for six months bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kishanganj in connection with Complaint Case No. 1453C of 2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below decide the factum of Talak. If the learned court below comes to a finding that the petitioner has already given Talak as per Muslim rituals to the



complainant then the provisional bail will be confirmed by the learned court below, but if the learned court below comes to a finding otherwise then the petitioner will surrender and pray for regular bail.



(Dinesh Kumar Singh, J.)

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