

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35029 of 2014

Arising Out of PS.Case No. -520 Year- 2013 Thana -FORBESGANJ District- ARRARIA

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Jitendra Mandal, S/o Sri Kulanand Mandal, resident of village- Kharkhan,
P.S.- Forbesganj, District- Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. Kiran Devi, wife of Jitendra Mandal, D/o Bhikho Das, presently
residing at village- Koskapur, P.S.- Phulkaha, District- Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate.

For the State : Mr. Parmanand Prasad, A.PP.

For the Opposite Party/s : Mr. Ramesh Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL ORDER

8 19-10-2016

Heard learned counsel for the parties.

The petitioner seeks bail in connection with Forbesganj
P.S. Case No. 520 of 2013 dated 22.12.2013 instituted under
Sections 498A/379 of the Indian Penal Code, 3/ 4 of the Dowry
Prohibition Act and 3/ 4 of the Prevention of Witch (Daain)
Practices Act, 1999.

Earlier, by order dated 09.12.2014, the Court, by way
of indulgence, had granted provisional bail to the petitioner and
issued notice to the O.P. No. 2 i.e., his wife and informant of the
case.

The Court would like to record that on the said date, a
categorical stand was taken on behalf of the petitioner that he is
ready to keep the informant and her child with full dignity, honour



and security and also provide for their needs. Thereafter, upon the O.P.No. 2 appearing, the Court was apprised that the petitioner has performed second marriage. Thereafter, the petitioner was given opportunity to amicably settle the matter and by way of extraordinary indulgence right from 05.08.2015, time was repeatedly given to the petitioner to inform the Court as to what arrangement he shall make so that informant and her children are taken proper care of.

Today also, a supplementary affidavit has been filed on behalf of the petitioner, in which the only plea taken is that he is ready to settle the dispute according to his economic condition, without there being any specific stand taken by him. The Court, thus, has no hesitation to hold that his conduct has not been fair towards the Court, which had shown indulgence to him. Thus, the Court has proceeded to hear the matter on merit.

Initially, a complaint case was filed which was converted into the present F.I.R. As per the allegation, the informant, who had married the petitioner on 12.03.2009, gave birth to a child whereafter a demand of Rs. 50,000/- and two cows was made. Subsequently, after the birth of the second child, the informant was alleged to be under the influence of evil spirit and the petitioner and his family members were forcing her to visit a

person who would free her from the clutch of the evil spirit, which she resisted and the petitioner, along with his family members, assaulted her and took away her silver chain, bangle worth about Rs. 20,000/- and ousted her from the matrimonial home alongwith her infant child, and despite mediation, he refused to take her back till the time demand of dowry was not fulfilled.

Learned counsel for the petitioner submits that he is a poor labourer and it was the informant who had deserted him. It is submitted that when she did not come back, the petitioner was forced to perform second marriage. It is further submitted that the petitioner cannot afford to pay any handsome amount to the informant for settlement, which is beyond his needs. It is further submitted that the petitioner has already spent over five months in custody.

Learned A.P.P. and learned counsel for the O.P. No. 2 submit that despite there being two children, the petitioner has performed second marriage and, further, that the informant remained in the matrimonial home for a quite long period, as would be evident from the fact that two children were born from the wedlock, and the informant was forced to leave the matrimonial home with her infant child without there being any genuine reason and only for fulfillment of the greed for dowry. It

is further submitted that on the one hand, the petitioner claims that he is poor, but on the other hand, he has performed second marriage, which would go to show that he has the means to support his second wife.

Having considered the rival contentions, this Court finds that the allegation against the petitioner cannot be said to be frivolous or false. The same has to be tested during trial. However, in view of the conduct of the petitioner before the Court as also the allegations made, which cannot be said to be baseless, this Court is not inclined to grant bail to the petitioner. Accordingly, the provisional bail granted to the petitioner stands cancelled and the present application stands dismissed.

The petitioner, who is present in Court, shall surrender before the court below, latest by 22nd October, 2016 failing which the court below shall take all coercive measures to ensure that he is taken into custody including informing the Superintendent of Police, Araria for the needful.

The Superintendent of Police, Araria, on being informed that the petitioner has not surrendered before the court below within the period fixed by the Court, shall be obliged to ensure that the petitioner is taken into custody and produced before the court for being remanded to judicial custody.

The Court below shall thereafter send a report with regard to the petitioner having surrendered and taken into custody.

Registry shall communicate the order to the court below as well as the Superintendent of Police, Araria, by Fax also latest by day after tomorrow.

(Ahsanuddin Amanullah, J)

Sujit/-

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