

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38215 of 2015

Arising Out of PS.Case No. -955 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Krishnendu Chatterjee S/o Arobindo Chatterjee R/o 79A, Ravindra
Palli, Faizabad Road, Lucknow, PS- Gazipur, District- Lucknow-16,
Uttar Pradesh.

.... Petitioner/s

Versus

1. The State of Bihar
2. Kumkum Roy, D/o Late Nihar Kanti Roy, R/o M-6, S.K. Nagar, Patna,
PS- Buddha Colony, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shankar Ganguli

For the Opposite Party/s : Mr. Durgesh Nandan(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

6 29-01-2016 Petitioner being husband of the complainant
is apprehending his arrest in a complaint case wherein
processes were directed to be issued after cognizance being
taken for the offences punishable under Section 498A of the
Indian Penal Code.

The basic accusation is of torture.

It appears that the petitioner is suffering
from erectile dis-function, as a result of which the marriage
could not be consummated. It is alleged by the complainant
that this fact was not disclosed to her prior to the marriage.

It is submitted by learned counsel for the
petitioner that petitioner is suffering from erectile dis-function
and this fact was disclosed to the complainant orally prior to

the marriage. The petitioner made all efforts to persuade the complainant to resume the conjugal life as she deserted him and ultimately the petitioner filed Matrimonial Suit No. 1185 of 2013 on 20.05.2013. The petitioner is still ready to keep the complainant with dignity and honour but as complainant is not ready to resume the conjugal life, petitioner is ready to make some monthly payment for the welfare of the complainant.

It is submitted by learned counsel for the complainant that petitioner concealed this fact that he is impotent. The petitioner has kept all jewellery and other articles of the complainant. The petitioner has taken inconsistent view so far as the question of impotency is concerned before different Courts and in spite of issuance of warrant the petitioner did not appear. The complainant in the given circumstance is not ready to resume the conjugal life nor ready to accept any monthly payment.

Considering the present respective stand of the parties, the issue is not likely to be resolved, 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 Judicial Magistrate, 1st Class, Patna in connection with Complaint Case No. 955(C) of 2011, subject to the conditions as laid down under Section

438(2) of the Cr.P.C.

Since the complaint was filed in 2011 and the present anticipatory bail application has been preferred before this Court in 2015, which suggests the casual way the petitioner has taken the Court proceedings. In the circumstance, let learned Court below cancel the bail bonds of the petitioner, if the petitioner defaults for two consecutive occasions. It is further made clear that petitioner will appear in all the proceedings regularly arising out of the matrimonial discord between the parties.

It is expected from the Trial Court to conclude the trial preferably within a period of one year.

(Dinesh Kumar Singh, J)

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