

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4262 of 2016

Arising Out of PS.Case No. -166 Year- 2015 Thana -FALKA District- KATIHAR

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Md. Mojahid, son of Nasim

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh

For the Opposite Party/s : Mr. Nitya Nand Tiwari(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 12-07-2016

Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Section 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

Notices were issued to the opposite party no.2 vide order dated 27.01.2016. Ordinary process of notice has also been directed to be served on opposite party no.2 through her lawyer appearing before the learned Court below. The report of the Judge-in-charge (Adm.), Civil Court, Katihar, dated 16.03.2016, reflects that opposite party no.2 resides at Delhi. Moreover, since it is a police case hence perhaps no lawyer has appeared on her behalf before the learned Court below. This Court vide order dated 19.05.2016 directed for issuance of fresh notices to opposite party no.2. The office note dated 11.07.2016 reflects that on the given

address no such lady resides.

Under the circumstances notices issued to opposite party no.2 be deemed to be validly served.

Basic accusation is of torture for non-fulfillment of dowry demand.

Though, the order dated 27.01.2016 reflects that on instruction learned counsel for the petitioner is ready to keep the informant as wife with dignity and honour but it is submitted that it has wrongly been submitted. In fact, the petitioner disputes the factum of marriage. A statement to that effect has been made in paragraph 8 of the petition, which reads as follows :-

"That no manner of occurrence as alleged in the first information report has ever taken place, because no marriage in between the informant and petitioner has ever taken place, but due to some ulterior motive this case has been instituted at the instance of some enemies of the petitioner."

Considering the factum of marriage in dispute and in spite of notice being issued twice, could not be served since opposite party no.2 is not available on the address give by her in the FIR, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail

bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Katihar, in connection with Falka P.S. Case No.166/2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

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