

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10118 of 2016

Arising Out of PS.Case No. -2657 Year- 2015 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

- =====
1. Niraj Shahi @ Niraj Kumar Shahi son of shashikant Shahi
 2. Shashikant Shahi son of late Suresh Shahi
 3. Mira Shahi wife of Shashikant Shahi
 4. Pankaj Shahi@Pankaj Kumar Shahi son of Shashikant Shahi
 5. Suman Shahi wife of Pankaj Shahi All resident of Village-Tirmahuan
P.s turkapatti District Kushinagar U.P at Present 06/1021 Jankipuram
Bister P.s Madiyahu District Lucknow U.P.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pragati Shahi wife of Neeraj Shahi, Daughter of Markandey Rai
Resident of Village- Gopalpur Parsauni P.s Gopalpur District
Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Sharma

For the Opposite Party/s : Mr. Chandra Bhushan Prasad(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 28-07-2016

Petitioner No. 1 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 under Section 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfilment of dowry demand.

It is submitted by learned counsel for the petitioners that petitioner No. 1 admits his marriage with the complainant and birth of a female child but subsequently somehow or the other petitioner No. 1 and the complainant lost mutual compatibility leading to filing of Matrimonial Suit No.

2146 of 2015 by the petitioner with a prayer for divorce on 17.08.2015 and thereafter the present complaint has been filed on 03.09.2015.

The matter was referred to the Mediation & Conciliation Centre of the State Legal Services Authority vide order dated 01.03.2016. The interim report of the Mediator at Flag-A dated 04.05.2016 suggests that request has been made for extending the period of mediation for getting the issue reconciled, but it is submitted by learned counsel for the petitioner No. 1 that the issue is not likely to be resolved.

In the alternative, petitioner No. 1 is ready to make payment Rs. 4000/- per month to the complainant from September, 2016, by depositing the same in the bank account of the complainant by second week of every month.

It is submitted by learned counsel for the complainant that the offer is acceptable to the complainant who undertakes to submit her bank account number by submitting the same on affidavit before learned Court below within a period of three weeks.

Considering the filing of the matrimonial suit by the petitioner No. 1 at earlier point of time, there is no likelihood of reconciliation being feasible at present between petitioner No. 1 and the complainant and the present stand of the petitioner No. 1 of making payment which at least will save the complainant and her minor child from vagrancy and

destitution, let the petitioner No. 1, 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, Gopalganj in connection with Trial No. 1360 of 2015, arising out of Complaint Case No. 2657 of 2015.

The above payment will be subject to any order being passed in matrimonial or maintenance proceeding.

Three consecutive defaults in making payment will give liberty to the complainant to file appropriate application for cancellation of bail of the petitioner No. 1.

The present order, in no way will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J)

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