

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22457 of 2016

Arising Out of PS.Case No. -36 Year- 2015 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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1. Md. Murtuza Nadaf S/O Saheb Nadaf, resident of village- Jale Sarkai,
P.S. Jale, District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Sakila Khatoon W/o Md. Murtuza Nadaf, D/o Md. Najir Nadaf, at
present residing at village Singyahi, P.S. Pupri, District- Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Advocate
For the Opposite Party/s : Mr. Uma Nath Mishra(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

4 27-09-2016 Heard learned counsel 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 Sections 498A, 323, 504/34 of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by the learned counsel for the petitioner that petitioner admits his marriage with the complainant having no issue, but the marriage between petitioner and complainant has been dissolved before the Gram Kutchery and the petitioner has not performed second

marriage. Statement to that effect has been made in para- 8 of the petition which reads as follows:-

“That it is stated that neither there is allegation in the complaint petition about 2nd marriage of this petitioner nor the complainant has produced any evidence about 2nd marriage but during hearing of anticipatory bail application the complainant appeared and falsely stated that this petitioner solemnized another marriage in Madras. The real fact is that the petitioner has not solemnized another marriage.”

It is further submitted that petitioner is still ready to keep the complainant as wife with full dignity and honour after performing Nikah again.

Learned counsel for the complainant submits that complainant denies the factum of talak, but claims that petitioner has performed second marriage at Madras and having issues with the second wife.

Petitioner and complainant are present before the Court.

In the alternative, the petitioner is ready to make payment of Rs. 1800/- per month from November, 2016 to the complainant by depositing the same in her account by second week of every succeeding month.

Learned counsel for the complainant submits that complainant is ready to accept the offer of the petitioner and undertakes to submit her bank account number on affidavit before the learned court below within a period of three weeks.

Considering the present stand of the parties, let the above named petitioner be released on anticipatory 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 bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Pupari at Sitamarhi in connection with Complaint Case No. C-1/36 of 2015, subject to conditions as laid down under Section 438(2) of the Indian Penal Code.

The aforesaid payment will be subject to any order being passed in matrimonial or maintenance proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J)

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