

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36183 of 2015

Arising Out of PS.Case No. -3434 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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Yasmin Gulnaz Wife of Md. Shahzada Hussain and daughter of Md.
Salauddin resident of Mohalla - Karbighaiya, P.S. Jakkanpur, District -
Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Shahzada Hussain Son of Late Md. Niyamat Hussain resident of
Mohalla - Karbighaiya, P.S. Jakkanpur, District - Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abul Kalam

For the Opposite Party/s : Mr. Jitendra Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

04/ 04-05-2016

The present application has been filed for quashing the order dated 04.07.2015 passed by learned Sub-divisional Judicial Magistrate, Patna passed in Miscellaneous Case No. 01 of 2014 arising out of Complaint Case No. 3434(C) of 2012, whereby petitioner's prayer for directing the opposite party no. 2, the husband of the petitioner, to give sample for DNA matching of opposite party no. 2 with the minor child.

The factual matrix of the case is that opposite party no. 2 preferred Cr. Misc. No. 1561 of 2014 with a prayer for anticipatory bail in a complaint case wherein processes have been directed to be issued after cognizance being taken for



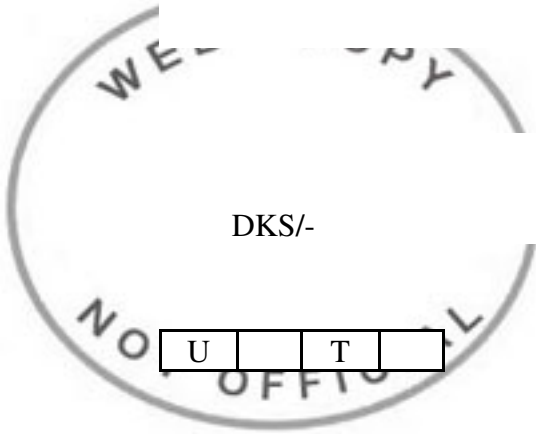
the offences punishable under Sections 498A of the Indian Penal Code and 3/4 of Dowry Prohibition Act. Since the marriage was in dispute, hence, opposite party no. 2 was granted provisional anticipatory bail for six months vide order dated 19.03.2014 with liberty to the learned court below to conduct an enquiry with regard to the factum of marriage and if the learned court below comes to a finding that the complainant was never married with the opposite no. 2-petitioner then the provisional bail of the opposite party no.2-petitioner will be confirmed by the learned court below but if the learned court below comes to a conclusion otherwise then the opposite party no.2-petitioner will surrender and pray for regular bail.

From the impugned order it appears that the prayer was made for a direction to opposite party no. 2 to give sample for DNA matching with the minor child and the petitioner. The learned court below rejected the prayer on the ground that the directive of the High Court to the learned court below to decide the factum of marriage and not to decide the parentage of the child.

This Court finds no illegality in the impugned order. However, the petitioner is not precluded to raise the issue with regard to parentage of the child in question

in appropriate proceeding.

Accordingly, this application is disposed of.



(Dinesh Kumar Singh, J)