

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26332 of 2016

Arising Out of PS.Case No. -569 Year- 2015 Thana -KATIHAR COMPLAINT CASE District-
KATIHAR

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Abu Bakar @ Md. Abu Bakkar @ Md. Bakar S/o Md. Nasir R/o Kantadih,
P.S.- Kadwa, Distt.- Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Anekjan @ Walekjan D/o Late Manjur Ali, W/o Md. Abu Bakkar
@ Md. Bakar R/o Bijaili, P.S.- Dandkhora, Distt.- Katihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh

For the Opposite Party/s : Mr. Sri Pranav Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

03/ 26-07-2016

Heard learned counsels for the petitioner and the
State.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A of the Indian Penal Code and 4 of Dowry Prohibition Act.

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

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the

complainant and is ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 8 of the petition, which reads as follows:-

“That it is submitted that the petitioner is ready to keep his wife/complainant with full dignity and honour which she deserve in the muslim society.”

It is further submitted that the similar was the stand of the petitioner and the complainant accepted the offer but the learned Sessions Judge rejected the prayer of the petitioner on the ground that the petitioner is not ready to make payment of arrears of maintenance amount. Supplementary affidavit has been filed to the effect that no order has been passed in the maintenance proceeding for payment of the maintenance. Statement to that effect has been made in paragraph 3 of the supplementary affidavit, which reads as follows:-

“That it is respectfully submitted and stated here that as per the impugned order which appears that the petitioner declined to pay the maintenance to the complainant/wife is not the order of the learned court of Family Court, Principal Judge, Katihar, which is proposed by the learned Sessions Judge, Katihar, itself.

Moreover, it is error of the petitioner that the petitioner is not ready to keep the complainant.

Considering the present stand of the petitioner, let

the above named petitioner be released on provisional anticipatory bail for six months 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, Katihar in connection with Complaint Case No. 569 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below issue notice to the complainant on her appearance the petitioner will take the complainant to keep her as wife with full dignity and honour.

The provisional bail of the petitioner will be confirmed by the learned court below in three eventualities:- (i) on substantial restoration of the matrimonial harmony; (ii) or if the complainant gets reluctant to reconcile the issue; and (iii) or if the complainant fails to appear before the learned court.

(Dinesh Kumar Singh, J)

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