

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34562 of 2016

Arising Out of COMPLAINT Case No. -586 Year- 2015 District-
EASTCHAMPARAN(MOTIHARI)

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Md. Shamshad @ Raja Son of Md. Seraj Resident of Digha Ghat,
Chauhatta, Police Station- Digha, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Farhat Parween Wife of Md. Shamshad@Raja , Daughter of Faiyaz
Shohari At Present resident of Mohalla-Khoda Nagar, Behind Habeeb
Nursery, Police station - Chhatauni, District East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.
: Mr. Zeyaul Hoda, Adv.
For the Opposite Party/s : Mr. Sri Mukteshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 24-08-2016 Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance has been taken for the offences punishable under Sections 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

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

It is submitted by the learned counsel for the petitioner that the petitioner admits his marriage with the complainant in the year 2005 and birth of two children out of which one is died and

another is surviving. The petitioner is ready to keep the complainant as wife with full dignity and honour, statement to that effect has been made in para 10 of the petition which reads as follows:-

“That it is relevant to draw Your Lordships kind consideration that the petitioner is still ready to keep the complainant with full dignity and honor as per his capacity”

Learned counsel for the complainant submits that though, the complainant is ready to accept the offer of the petitioner but she is apprehensive that the petitioner has performed second marriage, though, admits that cognizance has not been taken under Section 494 IPC. Moreover, the petitioner has initially suggested before the learned court below that he is ready to keep the complainant but when the complainant appeared, the offer of the complainant has been declined by learned counsel appearing on behalf of the petitioner.

However, It is further submitted by learned counsel for the petitioner that before the learned court below learned counsel appearing on behalf of the petitioner has wrongly submitted that the petitioner is not ready to keep the complainant. Moreover, a supplementary affidavit has been filed to the effect that the petitioner has not performed second marriage, paragraph no.2 of

the supplementary affidavit reads as follows:-

“That it is humbly submitted for Your Lordships Kind consideration that the petitioner has not perform second marriage.”

Both sides agree to appear before the learned court below on 19th of September, 2016 when the petitioner will take the complainant to keep her as wife with full dignity and honour.

Considering the present stand of the parties, let the above named petitioner be released on provisional anticipatory bail for eight months in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM (Sadar) Motihari in connection with Complaint Case No. C586 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Let the learned court below issue notice to the complainant for her appearance when the petitioner will take the complainant to her matrimonial house 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) if

the matrimonial harmony is substantially restored (ii) if the complainant failed to appear or (iii) if the complainant deliberately refuses to reside with the petitioner.

The provisional bail of the petitioner will not be confirmed if any substantive proof comes on record that the petitioner has not performed second marriage and in that eventuality the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

Amrendra/-

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