

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45056 of 2015

Arising Out of PS.Case No. -2016 Year- 2014 Thana -DARBHANGA COMPLAINT CASE
District- DARBHANGA

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1. Md. Imran Son of Late Md.Kashim Resident of village - Babu
Salempur, Police Station - Raiyam, District - Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajiya Khatoon Wife of Md. Imran, D/o Md. Raza At Present Resident
of village - Raijara, Police Station - Raiyam, District - Darbhanga

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ratanakar Jha

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 25-07-2016

The petitioner is apprehending his arrest in a complaint case wherein processes were directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code and Section 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 petitioner that petitioner denies the factum of marriage. A statement to that effect has been made in para 10 of the petition which reads as follows:-

“That the real fact of the

case is that the petitioner never married with

Rajiya Khatoon(complainant) and the signature

of the petitioner has been forged on the alleged Nikahnama.”

The further case of the petitioner is that the petitioner was married with one Chandani Begum.

On issuance of notice to the complainant the complainant entered appearance and filed counter affidavit wherein the factum of marriage was reiterated by the complainant and statement has been made in para 6 of the counter affidavit that the deed of Talaknama along with the notice was transmitted on behalf of the petitioner through his advocate Md. Azhar Ali Saddam which was received by the father of the complainant wherein the petitioner categorically accepted the factum of marriage with the complainant. Para 6 of the counter affidavit reads as follows:-

“That so far as contention made in para-10 of petition on behalf of the petitioner that he never married with the complainant and the signature of the petitioner has been forged on Nikahnama is concerned, it is humbly submitted that there is absolutely no substance in this submission which is itself falsify from the fact that the petitioner send a pleader notice along with a deed of Talaknama dated 3-2-15 through his counsel Md. Azhar Ali Saddam, Advocate, Alipore Police Court, Kolkata(although same has not been received by the complainant rather her father received it) wherein this petitioner has

categorically accepted the factum of his marriage with the complainant on 20-11-14 at Kolkata and he also prove the genuinity of Nikahnama(Annexure-A) issued by the Muslim Marriage Registrar disclosing his marriage registration entries in full details.”

Learned counsel for the petitioner filed reply to the counter affidavit but there is no denial with regard to the facts stated in paragraph 6 of the counter affidavit, rather in paragraph 7 of the reply to the counter affidavit, it is stated that petitioner was married with one Chandani Begum. The petitioner completely denies the factum of marriage with the complainant but is ready to make payment of the maintenance amount. Paragraph 7 of the reply to the counter affidavit reads as follows:-

“That present position is that the petitioner is already married to Chandani Begum and thus cannot breach this tie coupled with the factum of complete denial of marriage with Razia Khatoon. Petitioner humbly prayed that he is ready to give maintenance to her during the pendency of this case, which may be found by this Hon’ble court taking into consideration that he is a labourer and sustains his livelihood on daily wages.”

Considering the inconsistent stand of the petitioner, let learned Court below consider the prayer for

regular bail of the petitioner, if the petitioner surrenders within a period of six weeks in connection with Trial No. 3448 of 2015, arising out of Complaint Case No. 2016 of 2014, pending in the Court of learned Sub-Divisional Judicial Magistrate, Darbhanga.

(Dinesh Kumar Singh, J)

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