

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29597 of 2016

Arising Out of PS.Case No. -934 Year- 2014 Thana -COMPLAINT CASE District- KISANGANJ

=====

Khabir Alam @ Khabiruddin son of Fajlur Rahman resident of Village-
Nunia Basti, Farsadangi P.S. Kishanganj, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ismat Jahan daughter of Mazbul Haque, wife of Khabir Alam, resident
of Vill- Nuniabasti, Farsadangi, P.S.- Kishanganj, District- Kishanganj.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Amal Kumar Sinha

For the Opposite Party/s : Mr. Dr.Mrityunjaya Kr.Gautam

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

04/ 02-12-2016

Heard learned counsels for the petitioner, State
and the complainant-opposite party no.2.

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 Section 498A of the
Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the



petitioner that the summons were issued but now non-bailable warrant of arrest has been issued. Statement to that effect has been made in paragraph 2 of the supplementary affidavit, which reads as follows:-

“That it is stated that the complainant filed a complaint case o. 934C/2014 before the Ld. C.J.M. Kishanganj. The complainant was examined on S.A. and three enquiry witnesses have been examined u/s 202 of Cr.P.C. and by an order dt. 14.12.2015 the learned S.D.J.M. Kishanganj took cognizance offence u /s 498A of I.P.C. and issue summons against the petitioner and thereafter non-bailable warrant issued him.”

It is further submitted that the petitioner admits his marriage with the complainant and birth of a child though at earlier point of time the mother of the complainant filed Kishanganj P.S. Case No. 362 of 2014 on 13.07.2014 levelling accusation against the petitioner under Sections 147, 341, 323, 337 and 379 of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act wherein the petitioner has been granted anticipatory bail by the learned Sessions Judge thereafter the complainant also filed Kishanganj P.S. Case No. 67 of 2016 on 10.03.2016 levelling accusation under Sections 341, 323, 324 and 307/34 of the Indian Penal Code and thereafter the present complaint was filed on 25.07.2014. It is further submitted that the



petitioner has already given to the complainant. Statement to that effect has been made in paragraph 15 of the petition, which reads as follows:-

“That the petitioner has pronounced Talaque to the complainant and there is no conjugal relation between them.”

It is further submitted that though it was submitted earlier that the petitioner has given talak to the complainant and statement to that effect has been given in paragraph 15 of the petition but in paragraph 3 of the supplementary affidavit it has been mentioned that the petitioner is not insisting the factum of talak. Statement to that effect has been made in paragraph 3 of the supplementary affidavit, which reads as follows:-

“That it is stated that now petitioner has ignored the Talaque which has been earlier stated in Paragraph no. 15 at Page no. 9 in Cr. Misc. No. 29597/2016 and it will always treated that the petitioner has not given Talaque to the complainant/O.P. No.2.”

The petitioner is now ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 4 of the supplementary affidavit, which reads as follows:-

“That it is stated that the petitioner is the



husband of the complainant/O. P. no. 2 and is ready to keep her wife with full dignity and love/honour.”

Counsel for the complainant submits that the complainant denied the factum of talak since beginning and since the petitioner is not insisting the factum of talak and is ready to keep her with dignity and honour, she is ready to accept the offer of the petitioner.

Both sides agree to appear before the learned court below on 14th of December, 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 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, Kishanganj in connection with Complaint Case No. 934C of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

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)

DKS/-

U		T	
---	--	---	--

