

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36454 of 2016

Arising Out of PS.Case No. -1714 Year- 2015 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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1. Dharmendra Kumar Singh @ Dharmendra Singh @ Chintu Singh son of
Rameshwar Singh, resident of Village-Badhwa Basa, Police Station- Tika
Patti, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Baubi Devi d/o Nand Kishore Singh, resident of Village- Basudeopur
Chandel, P.S.Mahnar, District- Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Ojha, Advocate

For the Opposite Party/s : Mr. Sri Abhay Kumar - 1

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

4 05-12-2016 Heard learned counsel for the petitioner and
learned counsel for the State.

The petitioner being the husband of the
complainant is apprehending his arrest in a complaint case in
which processes have 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.

The petitioner and complainant are present

It is submitted by the learned counsel for the
petitioner that petitioner admits his marriage with the
complainant and birth of two female child. The petitioner is still



ready to keep the complainant and children as wife with full dignity and honour. Statement to that effect has been made in para-5 of the petition which reads as follows:-

“That the petitioner is the husband of the complainant and has been falsely implicated in the present case to pressurize him to succumb to the unreasonable demands of the complainant but in spite of all the petitioner is trying to keep him with all due dignity.”

It is further submitted that similar was the stand of the petitioner before the learned court below, but the complainant denies to accept the offer of the petitioner claiming that petitioner has performed second marriage with Rani Devi, though, the cognizance has not been taken under Section 498A of the Indian Penal Code. The petitioner has not performed second marriage. The accusation of performance of second marriage is absolutely false. Statement to that effect has been made in para-6 of the petition based on the certificate of Surpanch contained in Annexure-2 that petitioner has not performed second marriage. Relevant portion of which reads as follows:-

This fact stands supported by the certificate issued by the Mukhiya of the Gram Panchayat to which the petitioner belongs in which it has been certified that the wife of the petitioner (complainant) has been staying separate from him since 9-10 years out of her own free-will and the allegation that her husband has married again is not true.”

Learned counsel for the complainant submits that



the complainant is ready to accept the offer of the petitioner, but she is apprehensive since as per her own the petitioner has performed second marriage.

Both the petitioner and complainant agreed 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 one six month 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 Sri Kavindra Kumar, Judicial Magistrate, Vaishali in connection with Complaint Case No. 1714 of 2015, 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 within six months 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.

But if the substantial proof comes that petitioner has performed second marriage, in that eventualities the



provisional bail of the petitioner will not be confirmed by the court below and in such eventuality the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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