

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36097 of 2016

Arising Out of PS.Case No. -613 Year- 2014 Thana -PATNA COMPLAINT CASE District-
PATNA

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Md. Aqbal Alam @ Md. Eqbal Alam, Son of Md. Mumtaj Alam, Resident
of Khawaja Noor Colony, Near Kagwali Temple, P.S. Kotwali, District –
Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Shakra Naseem, Wife of Aqbal Alam @ Md. Eqbal Alam,
Resident of Khawaja Noor Colony, Near Kagwali Temple, P.S. –
Kotwali, District – Gaya and Daughter of Md. Naseem, Resident of
Jaggi Ka Chauraha, N.B. Road, Patna City, P.S. – Khajekalan, District –
Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyamal Prakash

For the Opposite Party/s : Mr. Sri Kumar Virendra Narayan

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

ORAL ORDER

05/ 22-11-2016

Heard learned counsels for the petitioner, State
and the complainant-opposite party no2.

The petitioner being the husband of the
complainant is apprehending his arrest in a complaint case
wherein processes have 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. However, complaint was filed with accusation
under Sections 498A, 307, 313, 386, 406, 120B of the Indian
Penal Code and 3/4 of Dowry Prohibition Act.

The basic accusation is of torture for non-

fulfillment of the dowry demand.

Counsel for the petitioner submits that the complainant is the second wife of the petitioner, however, he is ready to keep the complainant as wife with dignity and honour. Statement to that effect has been made in paragraph 11 of the petition, which reads as follows:-

“That despite of the facts as contained in the preceding paragraphs, the petitioner is still ready to keep the complainant with him with all dignity, respect and honour.”

On the joint prayer of the parties the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority vide order dated 06.09.2016. The report of the Mediator dated 15.11.2016 at Flag ‘M’ reflects that the issue could not be resolved through the process of mediation. However, counsel for the petitioner reiterates his stand that he is still ready to keep the complainant as wife with dignity and honour.

Counsel for the complainant submits that the petitioner fraudulently trying to justify that the complainant is his second wife rather the complainant claims that she is the first wife of the petitioner and subsequently the petitioner period marriage with Tabbasum Ara and the marriage



document has fraudulently been prepared. The pregnancy of the complainant was twice terminated. In such a background the complainant has no confidence on the petitioner, hence, she is not ready to accept the offer of the petitioner.

However, counsel for the petitioner submits that the petitioner is ready to make payment of Rs.3,000/- per month from January, 2017 to the complainant by depositing the same in her account by second week of every succeeding month.

Counsel for the complainant submits that the complainant is ready to accept the offer of the petitioner and undertakes to submit bank account number on affidavit before the learned court below within a period of four weeks.

Considering the present stand of the parties and in order to save the complainant from destitution and vagrancy with a lurking hope that the issue will be reconciled in future, let the above named petitioner be released on anticipatory bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Patna City, in connection



with Complaint Case No. 613 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is made clear that this Court has not given any opinion with regard to the dispute that the complainant being the first wife as claimed by her or second wife as claimed by the petitioner.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file application for cancellation of bail of the petitioner.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J.)

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