

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44430 of 2016

Arising Out of PS.Case No. -206 Year- 2016 Thana -GIRIYAK District- NALANDA
(BIHARSHARIFF)

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Subhash Kumar, S/o Sri Ramanand Prasad, resident of village- Sinduari,
Police Station- Wazirganj, District- Gaya

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Opposite Party/s : Mr. Smt. Reena Sinha

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-10-2016

Learned counsel for the petitioner is permitted to
make correction in the prayer portion during course of
the day.

Heard learned counsel for the petitioner and the
State.

The petitioner being the husband of the
informant is apprehending his arrest in a case registered
for the offences punishable under Sections 498A, 494 of
the Indian Penal Code and 3/4 of the Dowry Prohibition
Act.

The basic accusation is of torture for non-

fulfillment of dowry demand and performing second marriage.

It is submitted by learned counsel for the petitioner that petitioner admits his marriage with the informant and he is ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in para- 7 of the petition which reads as follows:-

“That the petitioner further submits that the entire allegations are false and concocted and petitioner is ready to keep the informant/wife but informant herself does not want to live in her matrimonial house.”

It is further submitted that petitioner has filed Matrimonial Suit No. 50 of 2014 for restitution of conjugal life which was decreed and the informant was directed to resume the conjugal life with the petitioner, but the informant failed to resume the conjugal life. Statement to that effect has been made in para-9 of the petition which reads as follows:-

“That the petitioner further submits that the petitioner has filed a Matrimonial Title Suit No. 50 of 2014 against the informant in the court of Principal Judge, Family Court, Gaya, u/s 9 of the Hindu Marriage Act which has been decreed and o.p. no. 2 was directed to resume her matrimonial relation within three months of the passing of that order but till dated o.p. no. 2 has not shown any interest in leading the conjugal life.”

Further statement has been made in para-3 of

the supplementary affidavit that petitioner has not performed second marriage which reads as follows:-

“That in this regard it is submitted on behalf of the petitioner that the petitioner has not solemnized any other marriage as yet and the case is pending before the Principal Judge, Family Court, Gaya but it was wrongly mentioned in the main petition as Principal Judge, Family Court, Nalanda at Bihar Sharif.”

Considering the present stand of the petitioner, 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 Chief Judicial Magistrate, Nalanda at Bihar Sharif in connection with Giriyak P.S. Case No. 206 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned court below issue notice to the informant on her appearance the petitioner will take the informant to keep her as wife with full dignity and honour.

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 informant gets reluctant to reconcile the issue; and (iii) or if the informant fails to appear before the learned court.

(Dinesh Kumar Singh, J)

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