

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33860 of 2016

Arising Out of PS.Case No. -11 Year- 2016 Thana -MAHILA P.S. District- PATNA

Nirnay Kumar Srivastava @ Nirnay Kumar, son of Arun Kumar Srivastava,
resident of Mohalla Golghar Chowraha, P.S. Budha Colony, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nitu Sinha, daughter of Basant Sinha, resident of Mohalla CDA Colony, House No. 86, Near Shiv Mandir, P.S. Shastri Nagar, District Patna.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra

For the Opposite Party/s : Mr. Sri Uma Shankar Prasad Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 09-08-2016

Heard learned counsels 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/34 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.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant and is ready to keep the informant as wife with full

dignity and honour. The learned court below has refused to accept the prayer of the petitioner since the petitioner has filed matrimonial suit with a prayer for divorce. But, it is submitted by learned counsel for the petitioner that the petitioner is not proceeding in the matrimonial suit and trying to reconcile the issue by keeping the informant with him. Statement to that effect has been made in paragraph 10 of the petition, which reads as follows:-

“That the petitioner is at present working on contract basis in PESU and earning about Rs.7,000/- per month. He has filed Divorce Case No. 464 of 2015 in the Court of Principal Judge, Family Court, Patna on 25.04.2015 but till date, he has not proceeded with his case and he is always trying to materialize the matter and to keep the informant with him.”

It is further submitted that the petitioner has instructed to file matrimonial suit for restitution of conjugal rights but inadvertently it was filed with a prayer for divorce, though, statement to that effect has not been made in the petition.

Considering the present stand of the petitioner, though, the impugned order reflects that the mediation has failed, 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 Judicial Magistrate, Ist Class, Patna in connection with Patna Mahila P.S. Case No. 11 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 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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