

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44231 of 2016

Arising Out of PS.Case No. -267 Year- 2015 Thana -DARBHANGA COMPLAINT CASE District-
DARBHANGA

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Md. Hasnain Son of Md. Husan Imam Resident of Village-Sirnina, P.S.-
Ashok Paper Mill, District-Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Shakila Khatoon daughter of Md. Usman resident of Chilha Dilawarpur,
P.S.-Baheri, District-Darbhanga

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Durga Nand Jha, Adv.

For the Opposite Party/s : Mr. Sri Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-10-2016 Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the complainant is languishing in jail since 18.08.2016 in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A and 323 of the Indian Penal Code.

The basic accusation is of torture. The complainant Shakila Khatoon claims to have married with the petitioner on 27.03.2015, but subsequent to the marriage, further dowry demand of ₹1.5 lacs and motorcycle were made. For non-fulfillment of the same, the accused persons inflicted torture by assaulting her. On 18.02.2015, the petitioner and other co-accused persons brutally

assaulted the complainant, snatched her ornaments and drove out from matrimonial house. Out of wedlock two children were born.

It is submitted by the learned counsel for the petitioner that the petitioner does not dispute the factum of marriage and birth of two children but the petitioner gave 'Talak' to the complainant and subsequently also filed Matrimonial Suit No. 44 of 2015 under Section 307 of Muslim Law for confirmation of the same. It is further submitted that the petitioner is still ready to keep the complainant as wife with full dignity and honour provided she performs formality of Muslim Law.

Learned counsel for the complainant submits that during consideration of anticipatory bail this was not the condition of the petitioner. The condition of 'Halala' and claim of divorce were not taken as a result the petitioner was granted provisional anticipatory bail on his undertaking that he is ready to keep the complainant as wife but he failed to comply the undertaking, hence, his bail bonds has been cancelled.

Considering the nature of accusation, let the above named petitioner be released on bail on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Addl. Chief Judicial Magistrate-3rd, Darbhanga in connection with CR No. 267 of 2015.

The petitioner undertakes to make payment of ₹3,000/- to the complainant per month from December, 2016 by depositing the same in the bank account of the complainant by second week of every month.

Learned counsel for the complainant, on instruction, submitted that the complainant is ready to accept the offer of the petitioner and she undertakes to supply her bank account number to the petitioner within a period of three weeks.

The aforesaid payment will be subject to any order being passed in matrimonial or maintenance or any other related proceedings.

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

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

(Dinesh Kumar Singh, J)

Amrendra/-

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