

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41821 of 2015

Arising Out of PS.Case No. -1962 Year- 2014 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

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1. Praveen Diwakar, son of Sri Ramdeo Mandal, resident of Village-
Mahadeo Bigha, P.S.-Hisua in the District of Nawada

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Pratibha Kumari, wife of Sri Praveen Diwakar and D/O Sri
Umesh Prasad, presently residing at Pranpur, P.S. –Nawada Muffasil
in the District of Nawada

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Narayan Sharma

For the Opposite Party/s : Mr. Satyaverat Verma (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 29-01-2016

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

It is submitted by learned counsel for the petitioner on instruction that petitioner admits his marriage with the complainant. The complainant has developed some cyst in the ovary, as a result the doctor suggested that she can not conceive though some medical assistance was provided by the petitioner and petitioner is still ready to keep the complainant with full dignity and honour. A statement to that effect has been made in para 10 of the petition which reads as follows:-

“That the petitioner further humbly states and submits that the petitioner is still ready to keep the complainant/Opp. Party No. 2 with all dignity, although the complainant/Opp. Party No. 2 does not want to live with the petitioner, who is active in government service in the police department..”

It is submitted that petitioner has not performed second marriage though statement to that effect has not been made in the petition.

It is submitted by learned counsel for the complainant that complainant is ready to accept the offer of the petitioner to resume the conjugal life even though petitioner has performed second marriage. The accusation of performing second marriage has been made in paragraph No. 5 of the petition but cognizance has not been taken under Section 494 of the Indian Penal Code. There is nothing on record to suggest that complainant has definite information about the second marriage of the petitioner.

In view of the present stand of both sides who agree to reconcile the issue, let both sides appear before learned Court below on 11th of February, 2016, when the petitioner will take the complainant to her matrimonial house to keep her as wife with full dignity and honour.

Considering the present stand of the parties, let the petitioner, above named, in the event of his arrest or

surrender before the Court below within a period of 12 weeks from today, be released on provisional anticipatory bail for one year on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 2nd Class, Nawada in connection with Complaint Case No. 1962 of 2014.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below in three eventualities (i) On substantial restoration of the matrimonial harmony within a period of one year (ii) If the complainant fails to appear before learned Court below (iii) If the complainant is reluctant to reconcile the issue.

Shageer/-

(Dinesh Kumar Singh, J)

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