

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30130 of 2016

Arising Out of PS.Case No. -465 Year- 2015 Thana -GAYA COMPLAINT CASE District- GAYA

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Md. Hassan Son of Md. Abdul Rashid alias Tunnu resident of Mohalla
Ishlamganj Kalari P.S. Chandaoti District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Afrin Bano Daughter of Md. Nasim resident of Mohalla Near Quashim
Middle School P.S. Civil Lines District- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramashish, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 08-11-2016 Though the matter has been listed under the heading

‘For Orders’ awaiting the service report of notices issued to

opposite party no.2 but since counsel for opposite party no.2 has

appeared, hence the matter is being taken up on merits.

The petitioner being husband of the complainant is
apprehending arrest in a complaint case wherein process has been
directed to be issued after cognizance being taken for the offences
punishable under Sections 406 and 498A of the Indian Penal Code
and sections 3 and 4 of Dowry Prohibition Act.

The basic accusation is of torture for non fulfillment of
dowry demands.

The petitioner and the informant are present in court.

It is submitted by learned counsel for the petitioner that



the petitioner admits his marriage with the complainant and birth of a female child but since the complainant deserted the petitioner, hence, the petitioner claims to have given 'Talak' to the complainant on 09.09.2014 which was being confirmed by Immarat-E-Sariya, Fulwarisharif on 12.10.2014 and thereafter, the present complaint has been filed on 24.03.2015, though the petitioner also filed Complaint Case no. 337 of 2015 on 03.03.2015 levelling accusation against the complainant and her family members under Sections 147, 504, 323, 448, 452, 506 and 380/34 of the IPC, in the circumstances, the petitioner is not ready to keep the complainant.

Learned counsel for the complainant submits that the complainant denies the factum of 'Talak' and is still ready to resume the conjugal life. It is further submitted that Complaint Case No. 337 of 2015 was filed by the petitioner on 03.03.2015 but in the complaint petition, there is no averment with regard to the factum of Talak. Moreover, paragraph no.6 of the complaint petition stipulates that the complainant herself deserted the petitioner on 30.06.2014 which further clouds the claim of giving 'Talak' on 09.09.2014 put forward by the petitioner.

However, in the alternative, learned counsel for the petitioner submits that the petitioner is ready to make payment of

Rs. 3,000/- 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 submits that the complainant is ready to accept the offer and undertakes to provide her bank account number to the petitioner within three weeks by submitting the same on affidavit before the learned court below.

Considering the rival submissions of the parties, without recording any finding with regard to factum of 'Talak' and in view of present stand of the parties, let the above named petitioner be released on anticipatory bail in the event of 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 SDJM, Gaya in connection with Complaint Case No. 465 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid payment will be subject to any order being passed in matrimonial, maintenance or any other connected proceeding. However, the said payment will have no bearing with regard to claim of the petitioner with regard to factum of giving 'Talak' which will be decided in the appropriate proceeding.

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

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

(Dinesh Kumar Singh, J)

Amrendra/-

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