

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34446 of 2016

Arising Out of PS.Case No. -61 Year- 2016 Thana -SATHI District-
WESTCHAMPARAN(BETTIAH)

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Afsar Alam son of Hussain Mian, resident of village- Parsauni, Police
Station- Sathi, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Abrun Khatoon @ Abrun Nesha, wife of Afsar Alam, daughter of
Naimuddin Mian, resident of village- Parsauni, Police Station- Sathi,
District- West Champaran at present resident of village-Kehunia
Upadhyay Tola, Police Station- Shikarpur, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra

For the Opposite Party/s : Mr. Smt. Gulnar Begam

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

03/ 25-10-2016

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 147, 341, 323, 498A, 504 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 and making assault.

The petitioner and the informant are present in
the Court.

On the joint prayer of the parties the matter was
referred to the Mediation and Reconciliation Centre of State

Legal Services Authority vide order dated 16.08. 2016. The report of the Mediator dated 20.10.2016 at Flag 'A' reflects that the issue could not be resolved through the process of mediation.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant. Earlier the informant filed Sathi P.S. Case No. 147 of 2015 levelling accusation under Sections 341, 323, 498A, 504 and 506/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act wherein the petitioner was granted anticipatory bail by learned Sessions Judge, West Champaran, Bettiah vide order dated 25.08.2015 passed in A.B.P. No. 10193 of 2015, as contained in Annexure-2, since the issue was resolved between the parties as both parties appeared before Sessions Judge and conveyed that they decided to resume the conjugal life with condition that petitioner will bring the informant back from her parents' house to the matrimonial house and in case of default the bail was liable to be cancelled.

It is submitted by learned counsel for the petitioner that the informant resumed the conjugal life but subsequently she left the matrimonial house on 06.05.2016. The petitioner filed application on 07.05.2016 in the court of learned



SDJM, West Champaran, Bettiah with regard to leaving of matrimonial house by the informant but thereafter maliciously the informant filed the present case. Since the informant has deserted the petitioner, the petitioner filed Matrimonial Suit No. 158 of 2016 on 11.05.2016 with a prayer for divorce.

It is submitted by learned counsel for the petitioner in the present scenario it is not possible for the petitioner to keep the informant. However, counsel for the informant submits that the informant is ready to resume the conjugal life.

In the alternative, the petitioner is ready to make payment of Rs.2,500/- per month from December, 2016 to the informant by depositing the same in her account by second week of every succeeding month.

Counsel for the informant submits that the informant is ready to accept the present offer of the petitioner and undertakes to submit bank account number on affidavit before the learned court below within a period of four weeks. Counsel for the informant further submits that the informant will not press the cancellation of bail preferred in Sathi P.S. Case No. 147 of 2015.

Considering the present stand of the parties, let



the above named petitioner be released on anticipatory bail in the event of his 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 Sub-divisional Judicial Magistrate, West Champaran, Bettiah in connection with Sathi P.S. Case No. 61 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order being passed in matrimonial, maintenance or connected proceedings.

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

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

(Dinesh Kumar Singh, J.)

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