

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39700 of 2016

Arising Out of PS.Case No. -56 Year- 2016 Thana -BOCHHA District- MUZAFFARPUR

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PANKAJ KUMAR SINGH @PANKAJ KUMAR Son of Awadheshwar Prasad Singh

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Malay Kumar Choudhary, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 21-09-2016 Heard learned counsels for the petitioner, informant and the State.

The petitioner being the elder brother of the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 354, 498A/34 of the Indian Penal Code.

Basic accusation is of torture. It is specifically alleged against the petitioner that on 10.05.2016 when the informant was sleeping alone with her daughter then the petitioner entered into the room and started undressing the informant when the informant raised alarm then accused persons assaulted the informant. It is alleged that husband and father-in-law of the informant caught hold her when Usha Devi (mother-in-law of the informant) poured

kerosene oil on her body. On alarm being raised nearby people came then the accused persons released the informant.

It is submitted by learned counsel for the petitioner that the marriage between the informant and the younger brother of the petitioner is admitted. Initially, the informant filed Complaint Case No.412/2010 with accusation under sections 498A IPC and 4 of the Dowry Prohibition Act, wherein the petitioner was not made an accused. Thereafter, the informant filed Bochaha P.S. Case No.90/2013 with accusation under sections 341, 323, 498A, 504/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act wherein along with her husband the petitioner was also made an accused, but on conclusion of investigation, the petitioner was not sent up for trial. Consequently, the husband of the informant filed Matrimonial Suit No.3/2010 with a prayer for divorce which was decreed vide judgment dated 08.02.2013. The said judgment has been brought on record as annexure -3 to the application. But subsequent to the decree the issue was reconciled between the husband and wife and the informant started residing with the husband, but since she was pursuing Bochaha P.S. Case No.90/2013, hence, the husband of the informant again filed Matrimonial Suit No.338/2015 with a prayer for divorce on 14.08.2015 and thereafter the informant lodged the present FIR on

11.05.2016.

Learned counsel for the petitioner further submits that though, accusation of outraging the modesty has maliciously been levelled against the petitioner, but there is no injury report on record and such accusation further gets clouded in view of the fact that the informant has been in habit of lodging frivolous cases. The accusation that all the accused brutally assaulted the informant on 10.05.2016 gets further clouded in view of no substantial injury being received by the informant.

Learned counsel for the informant submits that though the complainant filed altogether three cases with accusation under section 498A IPC but she entered into compromise and she is still ready to reconcile the issue. The accusation against the petitioner is specific. Subsequent to judgment dated 08.02.2013 passed in Matrimonial Suit No.30/2010 Miscellaneous Case No.4/2013 was preferred by the informant for setting aside the judgment of matrimonial suit on the basis of compromise. Consequently, the judgment of matrimonial suit was set aside.

However, photocopy of a medical report dated 12.05.2016 has been produced before this Court which basically suggests pain in the entire body.

Considering the fact that in earlier two cases lodged by

the informant, in one case the petitioner was not made an accused and in another case he was not sent up for trial, moreover, the accusation is not being corroborated by the medical opinion and above all the thrust of accusation is against the husband of the informant, 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 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-cum-Sub Judge-XI, Muzaffarpur, in connection with Bochaha P.S. Case No.56/2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Ashwini/-

(Dinesh Kumar Singh, J)

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