

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7979 of 2016

Arising Out of PS.Case No. -184 Year- 2015 Thana -MAHILA P.S. District- BHOJPUR

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Manish Choudhari @ Manish Choudhary, son of Late Mahavir Choudhary,
resident of Village-Bara Baijada, P.S.-Patehpur, District-Gaya, presently
posted at New Police Line, Bhojpur, Ara

.... Petitioner/s

Versus

1. The State of Bihar
2. Priyanka Kumari , wife of Manish Choudhari, daughter of meghu Choudhari, presently residing at New Aitwarpur, Dhalai Road, Post Office-Kurthaul, P.S.-Parsa Bazar, District-Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishor Prasad

For the Opposite Party/s : Mr. Narendra Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 25-02-2016 Petitioner being husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 341, 323, 498A, 34 of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner that petitioner admits his marriage with the informant and has filed Matrimonial Suit No. 388 of 2015 for restitution of the conjugal life. The petitioner is still ready to keep the informant as wife with full dignity and honour. A statement to that effect has been made in para 7 of the petition which reads as follows:-

“That, the petitioner is

husband and ready to keep and maintain her with

full honour and dignity”

A supplementary affidavit has been filed to the effect that petitioner has not performed second marriage. Para 4 of the supplementary affidavit reads as follows:-

“That, it is humbly submitted that the petitioner has not solemnized any other marriage and informant Priyanka Kumari is one and only his wife which is evident from the compromise petition also as nothing has been stated therein regarding the same”

It is submitted by learned counsel for the informant that petitioner has performed second marriage with one Jyoti Kumari, daughter of Raj Kumar Choudhary. Hence, reconciliation is not feasible.

Considering the fact that factum of second marriage is in dispute, 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 six months 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, Ara in connection with Bhojpur Mahila P.S. Case No. 184 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let learned Court below decide the issue of factum of second marriage as preliminary one and if learned

Court below comes to the conclusion that petitioner has not performed second marriage with Jyoti Kumari then provisional bail of the petitioner will be confirmed. However, if the learned court below comes to the conclusion that petitioner has performed second marriage then petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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