

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38763 of 2016

Arising Out of PS.Case No. -364 Year- 2015 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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1. Pawan Kumar, S/o Rajaram Prasad, Resident of Village- Alipur, P.S. Hilsa, District- Nalanda Petitioner

Versus

1. The State of Bihar.
2. Lucy Kumari, W/o Pawan Kumar, R/o Village- Alipur, P.S. Hilsa, Distt.- Nalanda at present D/o Braj Kishore Prasad, resident of Village- Kaila, Police Station- Nagarnausa, District- Nalanda Opposite Parties

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Appearance :

For the Petitioner : Mr. Ajay Mukherjee, Adv.
For the Opposite Parties : Mr. Ashok Kumar Singh, APP 213

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 05-09-2016

The learned counsel for the petitioner is permitted to make necessary correction in paragraph 8 of the petition.

The petitioner, being the husband of the complainant, apprehending arrest in a case registered under Sections 323, 341, 498A and 504 of the Indian Penal Code and 3 and 4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of dowry demand.

On instruction, it is submitted that the petitioner admits his marriage with the complainant and is ready to keep the complainant as wife with full dignity and honour. Statement to the aforesaid effect has been made in paragraph no. 8 of the petition, which reads as follows :

“That the petitioner is ready to keep the complainant/opposite party no. 2 with full dignity and honour, but, the opposite party no. 2 not wants to live with the petitioner.”

It is, further, submitted by the learned counsel for the petitioner that the petitioner has filed Matrimonial Suit No. 3 of 2015 for the restitution of the conjugal life wherein the complainant filed written statement refusing to reside with the

petitioner at present and ready to resume the conjugal life after completion of the study.

The learned counsel for the petitioner refers paragraphs 5 and 6 of the impugned order, recorded by the learned Session's Judge, which reads as follows :

“Learned counsel for the petitioner submits that there is no scope of settlement between the petitioner and complainant because the petitioner has filed Divorce Case bearing No. 3 of 2015 in the Family Court, Nalanda, hence, the issuance of notice to the complainant will be useless.

Learned counsel for the petitioner submits that the petitioner is husband of the complainant and the entire allegations levelled by the complainant are false and concocted. He further submits that the petitioner has filed a Divorce Case bearing no. 3 of 2015 in the Family Court, Nalanda.”

It is submitted by the learned counsel for the petitioner that wrong submission was made on behalf of the learned counsel for the complainant in the Court below to affect the divorce suit, bearing Divorce Suit No. 3 of 2015, which was filed with the prayer for divorce as a result learned Sessions Judge failed to take any recourse to reconciliation.

Considering the present stand of the petitioner, above named, he be released on **provisional anticipatory bail for six months** 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/- (rupees ten thousand) with two sureties of the like amount each in connection with Complaint Case No. 364(C) of 2015 to the satisfaction of the Subdivisional Judicial Magistrate, Hilsa, Nalanda.

Let the learned Court below issue notice to the opposite party no. 2 and on her appearance the petitioner will take

the opposite party no. 2 to keep her as wife with full dignity and honour.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below in three eventualities – (i) if the matrimonial harmony is substantially restored or (ii) if the opposite party no. 2 fails to appear before the learned Court below or (iii) if the opposite party no. 2 deliberately gets reluctant to reconcile the issue.

(Dinesh Kumar Singh, J)

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