

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34391 of 2016

Arising Out of PS.Case No. -1023 Year- 2014 Thana -COMPLAINT CASE District- ARRARIA

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Satish Sardar S/o Sri Lal Sardar Resident of Village- Pipra, Bijwar, P.S Palasi, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mamta Devi D/o Suryanand Mandal W/o Satish Sardar, Resident of Village- Pipra, Bijwar, P.S Palasi, District- Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gopal Kumar Jha, Adv.

For the Opposite Party/s : Mr. Anil Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 29-11-2016 Heard both sides.

The petitioner apprehends his arrest in Complaint Case No. 1023(C)/2014, registered for the offences punishable under Section 498(A) of the Indian Penal Code.

The complainant alleged that she was married to the petitioner about 5 to 6 years ago. Petitioner assaulted her and drove her out from the house for which the complainant filed Complaint Case No. 3446(C)/2009 under Sections 498(A) and 313 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. The complainant further alleged that on 16.04.2014 the petitioner (husband of the complainant) without her consent solemnized marriage with Yashoda Devi a minor girl

of the same village.

Learned counsel for the petitioner submits that the complainant has not stated anywhere that the petitioner ever subjected her to physical or mental torture. The complainant filed the case only because the petitioner is alleged to have solemnized second marriage with Yashoda Devi and at best offence under Section 494 of the Indian Penal Code is made out which is bailable, but the learned Magistrate found prima facie case under Section 498(A) of the Indian Penal Code.

On the other hand, learned counsel for the complainant submitted that the complainant also filed Maintenance Case no. 188/2013, but the petitioner has not appeared as yet. Petitioner must pay the maintenance to the complainant.

It appears that there is no averment in the entire complaint petition that the petitioner ever assaulted his wife or subjected her to physical or mental torture rather the complainant alleged that the petitioner solemnized second marriage without her consent.

Considering the facts aforesaid, the petitioner above-named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be

enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Araria in connection with Complaint Case No. 1023(C)/2014, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Prabhat Kumar Jha, J.)

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