

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54669 of 2015

Arising Out of PS.Case No. -1951 Year- 2014 Thana -COMPLAINT CASE District- ARRARIA

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1. Md. Kamaluddin son of Late Masleuddin, Resident of village- Bochi,
P.S.- Araria (Bairgachhi), District- Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Nagma D/o- Late Naziruddin Resident of village- Bochi, P.S.-
Araria (Bairgachhi), District- Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Naushad Uzzoha, Advocate
For the Opposite Party/s : Mr. Vinod Shankar Modi(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 01-12-2016 Heard learned counsel for the petitioner and the State.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 323, 498A of the Indian Penal Code.

Notices were issued to complainant/opposite party no. 2 vide order dated 02.12.2015. The office note dated 08.04.2016 reflects that ordinary process of notice has been received by the counsel for opposite party no. 2 appearing before the learned court below, hence this Court vide order



dated 11.08.2016 treated the ordinary process of notice as deemed valid service. Though, subsequently vide order dated 27.09.2016, since the notices were served to the counsel for opposite party no. 2 and there was nothing on record to suggest that concerned learned counsel intimated to opposite party no. 2 hence, fresh notices were issued to opposite party no. 2. The office note dated 28.11.2016 reflects that ordinary process of notice issued to opposite party no.2 has been received by her, but none is appearing on her behalf. In the circumstances, once again notices issued to opposite party no. 2 is deemed to be validly served.

The basic accusation is of torture.

It is submitted by the learned counsel for the petitioner that petitioner admits his marriage with the complainant. The complainant earlier filed Complaint Case No. 3610 of 2013 with similar accusation, which entered into compromise, thereafter the petitioner gave Talak to the complainant and subsequently the present complaint case has been filed.

It is further submitted that petitioner is ready to make payment of Rs. 1500/- per month from January, 2017 to the complainant by depositing the same in her bank account by second week of every succeeding month.

Considering the fact that in spite of twice notices being issued, the complainant failed to appear to controvert the



contention of learned counsel for the petitioner, 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 bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Araria in connection with Complaint Case No. 1951 of 2014, subject to conditions as laid down under Section 438(2) of the Indian Penal Code.

Learned counsel for the petitioner submits that a copy of this order will be served by the petitioner upon the complainant and her lawyer appearing before the learned court below.

It is expected from the complainant to submit her bank account number on affidavit before the learned court below within a period of three weeks, if she fails to submit the bank account number or declines to accept the offer of the petitioner, then the said amount will be deposited by the petitioner before the learned court below which will be subject to the conclusion of trial.

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

Three consecutive defaults in making payment will give liberty to the complainant 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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