

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39837 of 2014

Arising Out of PS.Case No. -396 Year- 2014 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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Rajesh Kumar Tiwary Son of Dinbandhu Tiwary Resident of Village +
P.O.- Sohjana, P.S.- Gidhour, District - Jamui (Bihar) at present C/o- M.P.
Singh, South Chandmari Road, Patna, Police Station- Kankarbagh, District -
Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Rani Tiwari Daughter of Sri Niranjan Tiwari Resident at Tulsi Mishra
Lane, Near Majilal Jha College, Nath Nagar, Police Station - Nath
Nagar District - Bhagalpur

.... Opposite Party/s

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With

Criminal Miscellaneous No.49692 of 2014

Arising Out of PS.Case No. -396 Year- 2014 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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Dinesh Kumar Tiwary @ Dinesh Kumar Tiwari son of Dinbandhu Tiwary
resident of village + P.O.- Sohjana, P.S.- Gidhour, District- Jamui (Bihar).
At Present residing at 395/C Sector- C, C.G.S. Colony, Near Water Tank,
Bhandup (East) , Mumbai, Police Station- Kanjur Marg, District- Mumbai
(Maharashtra).

.... Petitioner/s

Versus

1. State of Bihar
2. Rani Tiwari D/o Sri Niranjan Tiwari residing at Tulsi Mishra Lane,
Near Maujilal Jha College, Nath Nagar, Police Station - Nath Nagar ,
District- Bhagalpur

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.39837 of 2014)

For the Petitioner/s : Mr. Nilendu Kumar Choudhary

For the Opposite Party/s : Mr. Rajesh Kumar (App)

(In Cr.Misc. No.49692 of 2014)

For the Petitioner/s : Mr. Nilendu Kumar Choudhary

For the Opposite Party/s : Mr. Ashok Kumar Singh (App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER



22/ 21-12-2016

Heard learned counsels for the petitioners, State and the opposite party no. 2-complainant.

The petitioner in Cr. Misc. No. 49692 of 2014 being the husband of the complainant and petitioner in Cr. Misc. No. 39837 of 2014 being the elder brother of the husband of the complainant are apprehending their arrest in a complaint case wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 498A of the Indian Penal Code and 4 of Dowry Prohibition Act.

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

It is submitted by learned counsel for the petitioners that petitioner Dinesh Kumar Tiwary admits his marriage with the complainant having no issue.

Though, on joint prayer of the parties, the matters are referred to the Mediation and Conciliation of the State Legal Services Authority. The report of the Mediator dated 05.10.2016 at Flag 'A' reflects that the mediation could succeed due to non-cooperation of petitioner Dinesh Kumar Tiwary.

The matters were adjourned since last several



occasions for getting the issue reconciled. Today separate petitions on behalf of petitioner Dinesh Kumar Tiwary and the complainant have been filed wherein it has been stated that the issue has been resolved in terms of payment of one time settlement amount of Rs.23,00,000/- by the petitioner Dinesh Kumar Tiwary to the complainant Rani Tiwary. Both sides will file appropriate Matrimonial Suit under Section 13B of the Hindu Marriage Act within a period of four weeks. Both sides also agree to withdraw the respective cases lodged by them including Complaint Case No. 396 of 2014 pending in the court of SDJM, Bhagalpur, Complaint Case No. 3275(C) of 2013 pending in the court of CJM, Patna and the matrimonial suit pending between the parties.

Counsel for the complainant has not controverted the stand of the petitioner Dinesh Kumar Tiwary in the counter affidavit.

In the petition filed on behalf of the petitioner Dinesh Kumar Tiwary it has been stated that the petitioner Dinesh Kumar Tiwary will make the payment of one time settlement amount in one year but since the counsel for opposite party no. 2 is apprehensive with regard to one year period for payment of the one time settlement amount, in the interest of



justice. The petitioner Dinesh Kumar Tiwary will make payment of one time settlement amount within six months. This Court expects from the learned Principal Judge, Family Court, Bhagalpur to dispose of the matrimonial suit if filed under Section 13B of the Hindu Marriage Act expeditiously preferably within a period of six months. The petitioner Dinesh Kumar Tiwary will submit a bank draft of Rs.4,00,000/- before the learned SDJM, Bhagalpur at the time of furnishing of bail bonds. A draft of Rs.4,00,000/- will be submitted before the learned Principal Judge, Family Court, Bhagalpur within one month of the filing of the matrimonial suit under Section 13B of the Hindu Marriage Act and three months thereafter a draft of Rs.5,00,000/-, further a draft of Rs.5,00,000/- and lastly a draft of Rs.5,00,000/- will be submitted before the learned Principal Judge, Family Court, Bhagalpur on the date of passing of the decree in the matrimonial suit. Learned SDJM, Bhagalpur and learned Principal Judge, Family Court, Bhagalpur will release the drafts in favour of opposite party no.2-complainant.

Considering the present stand of the parties, let the above named petitioners be released on anticipatory bail in the event of their arrest or surrender before the learned court below within a period of twelve weeks from today, on



furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Bhagalpur in connection with Complaint Case No. 396 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Either party will be at liberty to file appropriate application before this Court on breach of one or other undertaking.

(Dinesh Kumar Singh, J.)

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