

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56200 of 2015

Arising Out of PS.Case No. -47 Year- 2015 Thana -KARJA District- MUZAFFARPUR

=====

1. Md. Noor Alam, Son of Chand Rashid, R/O- Village- Kandh Karja,
P.S.- Karja, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ruksar Firdaus, Wife of Noor Alam, Daughter of Md. Qaimuddin, R/O-
Village- Kandh Karja, P.S.- Karja, District- Muzaffarpur.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

For the Opposite Party/s : Mr. Gajendra Pd. Yadav(App)

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 20-10-2016

The petitioner is apprehending his arrest in
a case registered for the offences under Sections 341, 323, 420
of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The prosecution case is that petitioner used
to run Raunak Learning Point coaching institute where the
informant used to take tuition but one day the petitioner
ravished the informant and thereafter continued physical
relationship with her. On the pressure of the punches,
subsequently the petitioner performed marriage with the
informant. The informant got pregnant and subsequently gave
birth to a female child but that female child was killed by the
petitioner and others.

It is submitted by learned counsel for the
petitioner that the First Information Report was neither



registered under Section 376 I.P.C nor under Section 302 I.P.C though on conclusion of investigation, final report has been submitted under Sections 376, 498A, 341, 323, 420 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act. The case under Section 302 I.P.C was not found true. It is further submitted that even assuming the accusation the case under Section 376 I.P.C is not made out since Matrimonial Suit No. 125 of 2015 was filed with the consent of the informant with a prayer for dissolution of marriage and the maintenance case has also been filed by the informant.

Though the matter was referred to the Mediation & Conciliation Centre of the Bihar State Legal Services Authority on the joint prayer of the parties vide order dated 14.07.2016 but the report of the Mediator at Flag-C dated 22.08.2016 reflects that the issue could not be resolved through the process of mediation.

It is further submitted by learned counsel for the petitioner that in the alternative, petitioner is ready to make payment of Rs. 2000/- per month to the informant from December, 2016, by depositing the same in the bank account of the informant by second week of every succeeding month.

It is submitted by learned counsel for the informant that in order to save herself and the child from the destitution the informant is ready to accept the offer of the petitioner and undertakes to supply her bank account number

by submitting the same on affidavit before learned Court below within a period of three weeks.

Considering the present stand of the parties and filing of matrimonial suit for divorce with the consent of the informant at earlier point of time, 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 anticipatory bail, 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, West, Muzaffarpur in connection with Karja P.S. Case No. 47 of 2015.

The above mentioned payment will be subject to any order being passed in matrimonial or maintenance proceeding.

Three consecutive defaults in making payment will give liberty to the informant to file appropriate 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)

Shageer/-

U		T	
---	--	---	--