

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5535 of 2016

Arising Out of PS.Case No. -2920 Year- 2013 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

Munna Sah @ Munna Kumar S/o Sudama Sah, resident of Village-
Damodarpur, P.S.- Malahi District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Savitri Devi @ Savitri Sah w/o Munna Sah @ Munna Kumar, D/o late
Bhadai Sah, at present residing Saraiya, Pipra P.S.- Govindganj,
District- East Champaran.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Pandey

For the Opposite Party/s : Mr. Smt.Asha Kumari(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 15-03-2016

Heard learned counsels for the petitioner and the
State.

The petitioner being the husband of the
complainant is apprehending his arrest in a complaint case wherein
process has been directed to be issued after cognizance being
taken for the offences punishable under Section 498A, 323, 494,
504 of the Indian Penal Code and 4 of Dowry Prohibition Act.

The basic accusation is of torture after eight years of the marriage for non-fulfillment of the dowry demand and performing second marriage.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and has filed Matrimonial Suit No. 43 of 2013 for restitution of conjugal rights. The petitioner is ready to keep the complainant as wife with full dignity and honour, statement to that effect has been made in paragraph 10 of the petition, which reads as follows:-

“That the petitioner is ready to keep her with full dignity.”

It is further submitted that the petitioner has not performed second marriage, statement to that effect has been made in paragraph 9 of the petition, which reads as follows:-

“That the allegation of second marriage with Rita Devi is false she is distant relative of the petitioner and she unnecessary has been dragged of this case only to make ground for refusal of matrimonial relation with petitioner.”

It is further submitted that the complainant in Rajasthan filed Kotputli P.S. Case No. 262 of 2013 making accusation under Sections 498A and 406 IPC in which the petitioner has been granted bail.

Counsel for the complainant submits that the petitioner is ready to resume the conjugal life but she has information that the petitioner has performed second marriage with Rita Devi.

Both sides agree to appear before the learned court below on 8th April, 2016 when the petitioner will take the complainant to keep her as wife with full dignity and honour.

Considering the present stand of the parties, let the above named petitioner be released on provisional anticipatory bail for three months 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 Additional Chief Judicial Magistrate, Sadar, Motihari in connection with Complaint Case No. 2920 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned court below in three eventualities:- (i) on substantial restoration of the matrimonial harmony; (ii) or if the complainant gets reluctant to reconcile the issue; and (iii) or if the complainant fails to appear before the learned court.

But the provisional bail will not be confirmed by the

learned court below if substantive proof comes that the petitioner has performed second marriage and in that eventually the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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