

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11182 of 2016

Arising Out of PS.Case No. -20 Year- 2015 Thana -JOGBANI District- ARRARIA

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Naushad Alam @ Sad Rahman @ Md. Naushad Alam son of Md. Mumtaz Alam @ Murtuza @ Md. Mumtaz, Resident of village- Gareria Khand, P.S.- Jehanabad, District- Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. Shahina Bano wife of Naushad Alam, daughter of Md. Abdul Rauf, resident of Bathnaha Chowk, P.s.- Jgobani (Bathnaha O.P.), District- Araria

.... Opposite Party/s

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with

Criminal Miscellaneous No.51447 of 2016

Arising Out of PS.Case No. -80 Year- 2016 Thana -JAHANABAD District- JEHANABAD

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Md. Firoj Alam @ Firoj Khan son of Abdul Rauf, Resident of Village- Birpur Chauk Bathnaha, P.S.- Jogbani, District- Araria (Bihar).

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.11182 of 2016)

For the Petitioner/s : Mr. Syed Asgher Najmi

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

(In Cr.Misc. No.51447 of 2016)

For the Petitioner/s : Mr. Raju Giri

For the Opposite Party/s : Mr. Smt. Madhuri Lata

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

12 10-04-2017 Mr. Raju Giri, learned counsel for the petitioner is permitted to implead the informant Mahjabi as opposite party no. 2 in Cr. Misc. No. 51447 of 2016 in course of the day.

Heard Mr. Alamdar Hussain, learned counsel for the petitioner Naushad Alam @ Sad Rahman @ Md. Naushad Alam



in Cr. Misc. No. 11182 of 2016 and Mahjabi, Opposite Party no. 2, the wife of petitioner Firoj Alam @Firoj Khan in Cr. Misc. No. 51447 of 2016 and Mr. Raju Giri, learned counsel for the petitioner Md. Firoj Alam @Firoj Khan in Cr. Misc. No. 51447 2016 and Shahina Bano, opposite party no. 2, wife of Naushad Alam @ Sad Rahman @ Md. Naushad Alam in Cr. Misc. 11182 of 2016.

It is submitted by learned counsels for the parties that opposite party no. 2, Shahina Bano in Cr. Misc. No. 11182 of 2016 is the sister of petitioner Firoj Alam @ Firoj Khan in Cr. Misc. No. 51447 of 2016 and is the wife of Naushad Alam, petitioner in Cr. Misc. No. 11182 of 2016 whereas Mahjabi, Opposite Party no. 2 in Cr. Misc. No. 51147 of 2016 is the wife of Firoj Alam @Firoj Khan and the sister of Naushad Alam, the petitioner in Cr. Misc. No. 11182 of 2016.

Petitioner in Cr. Misc. No. 11182 of 2016, Naushad Alam @ Sad Rahman @ Md. Naushad Alam being the husband of Shahina Bano is apprehending arrest in Jogbani P.S. Case No. 20 of 2015 registered under Sections 498A/494 of the Indian Penal Code and ¾ of the Dowry Prohibition Act. .

The basic accusation is of torture for non-fulfillment of dowry demand and performance of second marriage.

Mr. Alamdar Hussain, learned counsel for the



petitioner Naushad Alam in Cr. Misc. No. 11182 of 2016 submits that the petitioner admits his marriage with Shahina Bano and denies to have performed second marriage. It is further submitted that the petitioner is still ready to keep the opposite party no. 2, Shahina Bano as wife with full dignity and honour. A statement to that effect has been made in paragraph 11 of the petition which reads as follows :-

“That the petitioner went to bring his wife on numerous occasions but she has refused to come even though the petitioner was always ready and is always ready to keep her with love and dignity more so because she is the mother of his son. Secondly his sister is also married with the informant's brother. So the petitioner is forever ready to continue this marital relationship.”

Mr. Raju Giri, learned counsel for the Opposite Party no. 2 Sahina Bano in Cr. Misc. No. 11182 of 2016 submits that the efforts are being made to reconcile the issue but at present she is reluctant to resume the conjugal life in view of the fact that petitioner has performed second marriage but she is not opposing the prayer for bail as the same will obstruct the process of reconciliation.

The petitioner in Cr. Misc. No. 51147 of 2016,



namely, Firoj Alam @Firoj Khan is being the husband of Mahjabi, O.P. No. 2 is apprehending arrest in Jehanabad P.S. Case No. 80 of 2016 registered under Sections 323,341,313,379, 498(A), 504,506/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of dowry demand and getting the pregnancy terminated.

Both the petitioners Naushad Alam and Firoj Alam as well as both the opposite parties Shahina Bano and Mahjabi are present in Court.

It has been submitted by Mr. Raju Giri, learned counsel for the petitioner Firoj Alam that the petitioner admits his marriage with the informant and birth of a male child. The petitioner is ready to keep the opposite party no. 2 Mahjabi as wife with full dignity and honour. A statement to that effect has been made in para 13 of the petition with reads as follows :-

“That the petitioner is ready to keep his wife (informant) with honour and dignity.”

Mr. Alamdar Hussain, learned counsel for the opposite party no. 2, namely, Mahjabi submits that the informant accepts the offer of the petitioner and is ready to resume the conjugal life hence she is not opposing the prayer for bail of the petitioner namely, Firoj Alam.



This Court interacted with both the petitioners and both the opposite parties. They have not controverted the contentions of the learned counsels for the petitioners and the opposite parties.

Considering the rival submissions of the parties, particularly, keeping in view of the fact that both the petitioners and the informants are making sincere effort to get the issue resolved, let the petitioners, above named, in the event of their 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 Additional Chief Judicial Magistrate 1st, Araria and Chief Judicial Magistrate, Jehanabad in connection with Jogbani P.S. Case No. 20 of 2015 and Jehanabad P.S. Case No. 80 of 2016 respectively, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The present order, in no way, will preclude the parties to resolve the issue as per the mutual agreement between the parties.

(Dinesh Kumar Singh, J)

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