

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12427 of 2016

Arising Out of PS.Case No. -96 Year- 2013 Thana -SARAI RANJAN District- SAMASTIPUR

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Hari Lal Paswan S/o- Sri Yogendra Paswan, Resident of Village- Gangsara
P.S.- Sarairanjan Distt.- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Indu Devi W/o- Hari Lal Paswan Resident of Village- Gangsara P.S.
Sarairanjan Distt.- Samastipur at present residing at Mohalla- Kashipur
ward No. 6, P.S.- Samastipur Town, Distt.- Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No-1

For the Opposite Party/s : Mr. Ashraf Ansari(App)

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

ORAL ORDER

10/ 17-03-2017

Counsel for the petitioner is present. However,
none appears for the opposite party no. 2.

Notices were issued to the informant-opposite
party no. 2 vide order dated 04.04.2016. In view of the office
note dated 16.06.2016 to the effect that ordinary process of
notice issued to O.P. No. 2 has been effected by way of house
service, hence it was treated to be deemed valid service vide
order dated 20.06.2016. Thereafter the matter was on the board
on 28.07.2016 but none appears on behalf of opposite party no.
2. Thereafter, on 19.09.2016, 23.09.2016, 01.12.2016,
23.01.2017 and 23.02.2017 the matter was adjourned but none



appeared on behalf of opposite party no. 2. Today also none is appearing on behalf of opposite party no. 2.

The petitioner being the husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 498A and 494 of the Indian Penal Code.

The basic accusation is of torture and performing second marriage.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant having two children (male and female). The informant herself deserted the petitioner. The petitioner is still ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in paragraph 8 of the petition, which reads as follows:-

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

It is submitted that the petitioner has not performed second marriage, though, statement to that effect has not been made in the petition.

During the pendency of the instant Cr. Misc. application in Maintenance Case No. 71 of 2012 filed by O.P.



No. 2 before the learned Principal Judge, Family Court, Samastipur the petitioner appeared. Petitioner and the informant filed a compromise petition to the effect that the informant is ready to receive Rs.9,000/- as maintenance. The said compromise petition has been brought on record as Annexure-1 to the supplementary affidavit. Subsequently, in maintenance case learned Principal Judge, Family Court, Samastipur vide order dated 20.06.2014 directed to the petitioner to pay Rs.4,00,000/- (Four lakhs) for the marriage of the daughter of the petitioner and the O.P. No. 2 but the said amount was not paid by the petitioner then the learned Principal Judge, Family Court, Samastipur vide order dated 14.01.2015 directed to the authority concerned to deduct the said mount from the P.F. of the petitioner and for depositing it in the account of the informant and simultaneously directed for stoppage of salary of the petitioner. The maintenance case was finally disposed of vide order dated 29.04.2016 by learned Principal Judge, Family Court, Samastipur whereby the petitioner was directed to make payment of Rs.6,000/- per month to the informant and Rs.4,000/- to the daughter Kasturi Kashyap from the date of filing of the maintenance application i.e. 18.05.2012 by 10th day of each succeeding month. The petitioner was further directed



to pay the entire arrears amount to the informant within one year in equal installments, failing which the informant was directed to get it realized through the process of court. Subsequently, the informant filed Execution Case No. 36 of 2016 for realization of the maintenance amount wherein an application was filed by the informant to the effect that maintenance amount from 18.05.2012 to 31.03.2017 comes to Rs.5,90,000/- out of which Rs.2,70,000/- has already been paid and Rs.3,20,000/- is left to be paid. Hence, account number of S.B.I. was submitted for left over amount to be deposited.

It is submitted by learned counsel for the petitioner that since the salary of the petitioner was stopped by the order of learned Principal Judge, Family Court, Samastipur, hence arrears of maintenance amount could not be paid. Now the stay has been vacated vide order dated 03.03.2017. Hence, the petitioner undertakes to make payment of arrears of amount within a period of six months and will continue to make payment of maintenance amount regularly as directed by the learned Principal Judge, Family Court, Samastipur.

Considering the nature of accusation, the fact that in spite of valid service of notice the informant chose to appear in the maintenance case and filed compromise petition in



the maintenance case but failed to appear before this Court, this Court is inclined to allow the prayer of the petitioner for grant of anticipatory bail, as non-grant of anticipatory bail will further push the informant and minor child to destitution and vagrancy, further with a lurking hope that the issue may reconcile in future, let the above named petitioner be released on anticipatory bail **provisionally for six 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 bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate VI, Samastipur in connection with Sarairanjan P.S. Case No. 96 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 on filing of proof with regard to payment of entire maintenance amount as directed in the maintenance proceeding.

(Dinesh Kumar Singh, J.)

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