

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1571 of 2016

Arising Out of PS.Case No. -98 Year- 2015 Thana -HABIBPUR District- BHAGALPUR

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1. Md. Abdul Wadood Son of late Sk Tajuddin
 2. Nagma@Nagma Tarannum Wife of Md. Abdul wadood Both are resident of Village- Sanhauli, P.s Jagdishpur Distt- Bhagalpur at Present C/o9 Md. Basrat, resident of VillageJabbarchak, P.s Tatarpur, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Subnam Ara W/o Md. Abdul Wadood D/o Late Maulvi Adil Hussain R/o village – Sanhauli, P.S. Jagdishpur, District – Bhagalpur, at present address – R/o Mohalla – Mojjam Chak, P.S. – Habibpur, District – Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar Sinha

For the Opposite Party/s : Mr. Narendra Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

10/ 16-02-2017

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

The petitioner no.1 being the husband of the informant and petitioner no. 2 being the second wife of petitioner no. 1 are apprehending their arrest in a case registered for the offences punishable under Sections 494, 498A, 391, 504, 506 and 109/34 of the Indian Penal Code and 4 of Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand and performing second



marriage by petitioner no.1.

The petitioner no.1 and the informant are present in the Court.

It is submitted by learned senior counsel for the petitioners that petitioner no. 1 admits his marriage with the informant in 1982 and birth of five children, out of which one daughter has already been married. It is claimed by petitioner no. 1 that he has given Talaq to the informant in 2012 and thereafter performed second marriage. Though, the children are residing with the informant but the informant herself is a teacher in a govt. school and she is receiving handsome salary.

It is submitted by learned senior counsel for the informant that out of the five children three are still studying and one daughter has still to be married and one son is doing some minor job. The informant denies the factum of Talaq and is ready to resume the conjugal life, but the petitioner is not ready to keep the informant.

Considering the inconsistent stand of the parties, the chances of reconciliation does not appear to be feasible. In the present proceeding it is also very difficult to decide the factum of Talaq.

However, learned senior counsel for the



petitioners submits that the petitioner no. 1 has now retired and wanted to settle the issue on payment of one time settlement amount but the issue has not been reconciled on the question of quantum of one time settlement amount. In the alternative, the petitioner no. 1 is ready to make payment of Rs.6,500/- per month from March, 2017 to the informant by depositing the same in her account by second week of every succeeding month. It is further submitted that the petitioner no. 1 will also provide financial assistance on the occasion of the marriage of the daughter.

Learned senior counsel for the informant submits that the informant reluctantly accepts the offer of petitioner no. 1 and undertakes to submit the bank account number on affidavit before the learned court below within a period of three weeks.

Considering the present stand of the parties, in order to save the informant and the children from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the above named both the 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 Additional Chief Judicial Magistrate, Bhagalpur in connection with Habibpur P.S. Case No. 98 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the informant to file application for cancellation of bail of petitioner no. 1. The informant will also file appropriate application for cancellation of bail of petitioner no. 1, if the petitioner no. 1 deliberately fails to attend the maintenance, matrimonial or in the proceeding of the present criminal case.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J.)

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