

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11173 of 2016

Arising Out of PS.Case No. -3499 Year- 2013 Thana -COMPLAINT CASE District- ARRARIA

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Md. Zakir @ Md. Zakir Hussain S/o Late Nazamuddin, Resident of village-
Bochi, P.S.- Araria (Bairgachhi O.P.), District- Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Rajiya @ Shahina W/o Md. Zahir, D/o Md. Jyabul Haque, resident
of village- Koshakipur, P.s.- Araria (O.P. Bairgachhi), District- Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh

For the Opposite Party/s : Mr. S.D.Singh Yadav(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

11/ 21-03-2017

Heard learned counsel for the petitioner and Mr.

J. N. Thakur for the State. None appears for opposite party no.2,
complainant.

The petitioner being the husband of the
complainant is apprehending his arrest in a complaint case
wherein processes have been directed to be issued after
cognizance being taken for the offences punishable under
Sections 323, 494 and 498A 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 complainant and birth of two children but has performed second marriage since complainant deserted the petitioner. However, the petitioner is still ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 20 of the petition which reads as follows:-

“That the petitioner is yet ready to keep the complainant with full love and dignity.....”

On the joint prayer of the parties vide order dated 18.08.2016 the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority. The report of the Mediator dated 20.09.2016 at Flag ‘B’ reflects that the issue could not be reconciled through the process of mediation.

It is further submitted by learned counsel for the petitioner that the petitioner has been directed to make payment of Rs.2500/- per month as maintenance vide order dated 29th of August, 2016 passed by learned Principal Judge, Family Court, Araria in Matrimonial Suit No. 99 of 2014 and the petitioner is making payment of the said amount. Certified copy of the said order has been produced. Let it be kept on record.



Having heard the learned counsel for the petitioner and the State it appears that the on the request of learned counsel for opposite party no. 2 the matter was adjourned on 08.12.2016 for 17.01.2017. But 17.01.2017 none appeared for opposite party no. 2. Thereafter on the prayer made by learned counsel for opposite party no. 2 the matter was adjourned on 17.02.2017 for 09.03.2017, but on 09.03.2017 again none appeared on behalf of opposite party no. 2. Today also none is appearing on behalf of opposite party no. 2.

Considering the fact that opposite party no. 2 has not appeared to controvert the contention of the petitioner and the matter is pending before this Court since 08.03.2016, this Court is not inclined to further adjourn the matter coupled with the fact that the issue could not be reconciled during mediation and the petitioner is making payment of the maintenance amount as directed by the learned Principal Judge, Family Court, Araria, at least, the same will save the complainant and the children from destitution and vagrancy, with a lurking hope that the issue may reconcile in future, let the above named petitioner be released on anticipatory bail 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-III, Araria in connection with Complaint Case No. 3499C of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bond of the petitioner will be accepted by the learned court below on filing proof with regard to update payment of maintenance amount as directed by learned Principal Judge, Family Court, Araria in Matrimonial Suit No. 99 of 2014 vide order dated 29th of August, 2016.

(Dinesh Kumar Singh, J.)

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