

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20786 of 2016

Arising Out of PS.Case No. -3422 Year- 2013 Thana -COMPLAINT CASE District- ARRARIA

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1. Naseemuddin @ Md. Naseemuddin S/o Md. Amiruddin resident of village Kujari Uttar Tola, P.S. Palasi, District Araria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rahmina Khatoon W/o Md. Naseemuddin, D/o SK. Md. Rizabul Haque, Resident of Village Kujari, Dakshin Tola, P.S.- Palasi, District- Araria.
3. Sk. Md. Rizabul Haque

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh

For the Opposite Party/s : Mr. J.N. Thakur(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

11 03-07-2017 Heard learned counsels for the petitioner and O.P. No. 3

Sk. Md. Rizabul Haque, the father of complainant O.P. No. 2 and

the State.

The petitioner being the husband of the daughter of O.P. No. 3 is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code and sections 3 and 4 of Dowry Prohibition Act.

The basic accusation is of torture for non fulfillment of dowry demands.

The complainant O.P. No. 2 filed Complaint Case No. 3422C of 2013 before the court of the learned CJM, Araria



alleging therein that the complainant O.P. No. 2 married petitioner about eleven months prior to the filing of the complaint. During marriage, the amount of Dainmehar was fixed as Rupees One Lac Five Thousand. After marriage, for some time, the complainant led a peaceful married life and was blessed with a female child but subsequently the petitioner performed second marriage with a married lady namely Bibi Arbun. Thereafter, accused persons started demanding further dowry of motorcycle and Fifty Thousand Rupees and in case of non-fulfillment of the same, torture was inflicted. The accused persons also tried to cause burn injury to the complainant O.P. No. 2 by pouring kerosene oil. On alarm being raised, the people of vicinity came and save her. Thereafter, the complainant was driven out from the matrimonial house.

The complainant was examined on solemn affirmation and statement of witnesses was recorded and thereafter the order of cognizance was passed.

It is submitted by learned counsel for the petitioner that the petitioner's first marriage was performed with Bibi Arbun but since Bibi Arbun remained issueless, he performed second marriage with the complainant with her consent and her family members. The complainant herself deserted the petitioner.



However, the petitioner admits his marriage with the complainant and birth of a female child. 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 18 of the petition which reads as follows:

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

Subsequent to the filing of the present bail application, the complainant died at her parent's house and the petitioner came to know this fact only when in pursuance to the notice issued to O.P. No. 2 the process server reported her to be dead.

On the prayer of learned counsel for the petitioner and learned counsel for the O.P. No. 2, this court vide order dated 23.2.2017 allowed the father of the complainant to be impleaded as O.P. No. 3. Learned counsel for the O.P. No. 3 admits this fact that the complainant O.P. No. 2 died at her father's place and the minor daughter of O.P. no. 2 is residing with O.P. No. 3 and they are maintaining her. Hence, at present, O.P. No. 3 claims certain amount for the maintenance of minor child.

Learned counsel for the petitioner submits that the petitioner is ready to make payment of Rs.1500/- per month from August, 2017 to O.P. No. 3 by depositing the same by second



week of every succeeding month in the joint bank account of O.P. No.3 and minor daughter of O.P. No. 2 till the minor child attains majority. Learned counsel for the O.P. No. 3 is ready to accept the offer and undertakes to provide the joint bank account number of the O.P. No.3 and minor daughter of O.P. No. 2 to the petitioner within a period of four weeks by submitting the same on affidavit before the learned court below. Hence, at present O.P. No. 3 is not opposing the prayer of anticipatory bail of the petitioner.

Considering the present stand of the parties, in order to save the minor daughter of O.P. No.2 from destitution and vagrancy, let the above named petitioner be released on anticipatory bail in the event of 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 SDJM, Araria in connection with Complaint Case No. 3422 C of 2013 subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid payment will be subject to any order being passed in maintenance or collateral proceeding.

Three consecutive defaults in making payment by the petitioner will give liberty to the O.P. No. 3 to file an



application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J)

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