

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24533 of 2016

Arising Out of PS.Case No. -97 Year- 2016 Thana -PATLIPUTRA District- PATNA

- =====
1. Mithilesh Tiwari Son of Late Gopeshwar Tiwari,
 2. Veena Tiwari wife of Mithilesh Tiwari Both resident of Village- F-86, Reserve Bank of India, Staff Quarters, Kurji More, P.S. Patliputra, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Jaya @ Guriya, wife of Rajnesh Kumar, daughter of Basukinath Tiwari, Presently residing at Jai Mata Dee Mandir, Park Road, Golghar, P.S. Gandhi, Maidan, District- Patna.

.... Opposite Party/s

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with

Criminal Miscellaneous No.24664 of 2016

Arising Out of PS.Case No. -97 Year- 2016 Thana -PATLIPUTRA District- PATNA

- =====
1. Rajneesh Kumar son of Mithilesh Tiwari Resident of Village- F-86, Reserve Bank of India, Staff Quarters, Kurji More, P.S. Patliputra, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Jaya @ Guriya wife of Rajneesh Kumar, daughter of Basukinath Tiwari presently residing at Jai Mata Dee Mandir, Park Road Golghar, P.S. Gandhi Maidan, District- Patna.

.... Opposite Party/s

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with

Criminal Miscellaneous No.23744 of 2016

Arising Out of PS.Case No. -452 Year- 2015 Thana -PATLIPUTRA District- PATNA

- =====
1. Rajneesh Kumar son of Mithlesh tiwari, Resident of Village -F-86, Reserve Bank of India.Staff Quarters Kurji More, P.s. Patliputra, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Jaya @ Guriya Wife of Rajneesh Kumar , daughter of Basukinath Tiwari, presently residing at Jai mata Dee mandir, Park Raod Golghjar, P.S. Gandhi Maidan, District - Patna.



.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.24533 of 2016)

For the Petitioner/s : Mr. Ajit Kumar Ojha

For the Opposite Party/s : Mr. Tapeswar Sharma(App)

(In Cr.Misc. No.24664 of 2016)

For the Petitioner/s : Mr. Ajit Kumar Ojha

For the Opposite Party/s : Mr. Raj Kishore Singh(App)

(In Cr.Misc. No.23744 of 2016)

For the Petitioner/s : Mr. Ajit Kumar Ojha

For the Opposite Party/s : Mr. Sri Satyavarat Verma

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

15 11-07-2017 Heard Mr. Ajit Kumar Ojha, learned counsel for the petitioners, Mr. Krishna Prasad Singh, learned Senior counsel for the informant and Mr. J.N. Thakur, APP for the State.

Cr. Misc. No. 24664 of 2016 has been preferred on behalf of the husband of the informant with a prayer for anticipatory bail in connection with Patliputra P.S. Case No. 97 of 2016, registered under sections 498A,324,307 and 34 IPC, whereas, Cr. Misc. No. 23744 of 2016 has been filed on behalf of the husband of the informant with similar prayer in connection with Patliputra P.S. Case No. 452 of 2015, registered under sections 498A and 379/34 of IPC and sections 3 and 4 of Dowry Prohibition Act and Cr. Misc. No. 24533 of 2016 has been preferred on behalf of the father and mother of the husband of the informant in connection with Patliputra P.S. Case No. 97 of 2016.

It is submitted by learned counsel for the petitioners



that the marriage between the petitioner, Rajneesh Kumar, and the informant was solemnized on 15.5.2015, having no issue, are admitted facts. Within six months of the marriage, Patliputra P.S. Case No. 452 of 2015 was registered on 29.11.2015, which got initiated with submission of a written report of the informant/ O.P. no. 2 before the Officer-in-charge, Patliputra Police Station on 29.11.2015, alleging therein that the marriage between the petitioner and the informant was performed on 15.5.2015 and thereafter, the informant went to her matrimonial house on 17.5.2015, but immediately after the marriage, further dowry demand of Rupees Two Lacs was made, when the father of the informant showed his inability to make payment, upon which torture was inflicted by not offering food to the informant. The informant fell ill but she was not provided medical assistance. The informant informed her parents about the illness whereafter her brother came but the in-laws of the informant got agitated and abused the brother of the informant and started assaulting him and the informant. On 17.6.2015, the informant came to her parent's house and thereafter returned to the matrimonial house on 23.9.2015 along with her parents but she was not allowed to enter into the matrimonial house as the in-laws were insisting to fulfil the dowry demand of Rupees Three Lacs.



On conclusion of investigation, the final report was submitted under sections 498A and 379/34 of IPC and sections 3 and 4 of Dowry Prohibition Act. In the aforementioned case, the parents and other family members, except the husband of the informant, Rajnish Kumar, have been granted bail.

It is further submitted that subsequently, under a compromise, the informant went to matrimonial house but after sometime on 14.2.2016, she attempted to commit suicide. The informant was taken to Kurji Holy Family Hospital on 14.2.2016 itself. The medical report dated 14.2.2016, as contained in Annexure 4 to Cr. Misc. No. 24533 of 2016, has been brought on record to suggest that the doctor found the case of suicidal attempt with simple injury over left side of lower neck region and she was discharged after being treated as outdoor patient on the same day. On 15.2.2016, the father of the informant took her to his own house with the consent of the husband of the informant after executing a document to the effect that the victim out of her own consent and free will is going to her parent's house as she does not have any complain against her husband or in-laws. The said document as contained in Annexure 5 stipulates that the informant took her jewellery and other articles. Subsequently, after leaving the house of the petitioner, the father of the informant took her to



PMCH where this fact was maliciously suppressed that she had been treated at Kurji Holy Family Hospital and it was reported that she has been assaulted. A tutored medical report was obtained which gets reflected from the discharge ticket as contained in Annexure 7 that in clinical history column it was got recorded that informant directly went to PMCH from her husband's flat, though she was assaulted on 14.2.2016 at 6 A.M. whereas the same discharge ticket reflects that she was admitted on 17.2.2016 and discharged on 22.2.2016.

Subsequently, Patliputra P.S. Case No. 97 of 2016 was registered on 7.3.2016 on the fardbeyan of the informant, Jaya alias Guriya recorded by S.I. D.K. Singh on 22.2.2016 at 8.10 A.M. in C.D. Ward of P.M.C.H. with accusation under sections 498A,324 and 307/34 of the IPC, where it is alleged that the attempt on life was made by the husband of the informant with blade which was being brought by the mother-in-law of the informant. In the said case, on conclusion of investigation, final report (chargesheet) has been submitted only under section 498A/34 of the IPC but accusation under sections 307 and 324 of the IPC has not been found true which further suggests that how maliciously the second case was lodged. The manipulation gets apparent from the fact that the assault was alleged to have been



made on 14.2.2016 at 6 A.M., she was taken to hospital on 17.2.2016, five days thereafter, her fardbeyan was recorded on 22.2.2016, which led to registration of the FIR on 7.3.2016. Though the informant filed Complaint Case No. 3838 of 2015 in the Court of the learned CJM, Patna with accusation under sections 379,420 and 498A of the IPC and sections 3 and 4 of Dowry Prohibition Act, but the same got dismissed due to non-appearance of the complainant.

It is further submitted by learned counsel for the petitioners that the husband of the informant Rajnish Kumar filed Matrimonial Suit No. 1103 of 2015 on 10.10.2015, with a prayer for judicial separation and thereafter, maliciously, both the FIRs have been lodged. There is no chance of any resolution of dispute in terms of resumption of conjugal life, hence, the husband is either ready to make payment of monthly maintenance amount for the welfare of the informant or is ready to get the marriage dissolved in terms of making payment of one time settlement amount.

So far as the parents of the husband of the informant Rajnish are concerned, it is submitted that the accusation against them is omnibus and general and they have been roped in both the cases simply because they happen to be the parents of the husband



of the informant. The parents have no objection in resolution of the issue in any manner, in which the petitioner and the informant decide to resolve.

On the joint prayer of the parties, this court vide order dated 27.10.2016 referred the matter to the Patna High Court Mediation and Conciliation Centre but the report of the Mediator at Flag – O suggests that the issue could not be resolved through the process of mediation. It is lastly submitted that no useful purpose will be served in allowing the husband of the informant or his parents to go to jail at this stage, as they are ready to appear regularly during trial in both the cases.

Learned Senior Counsel for the informant submits that the husband of the informant and his family members have cheated the informant and her parents as from the date of marriage the husband of the informant was not inclined to keep her as wife and the torture was inflicted immediately after the marriage. Though for restoration of harmony effort was made by the informant and her parents but when all efforts failed then ultimately the FIR, being Patliputra P.S. Case no. 452 of 2015 was lodged on 29.11.2015. However, prior to that, information was given to Mahila Help Line wherein summons were issued to the husband on 4.11.2015. On registration of the first case, the



informant was taken to matrimonial house but the accused persons tried to kill her by causing injury on her neck. The injury report of the Kurji Holi Family Hospital was prepared on the dictate of the husband of the informant as she was not in a position to explain to the doctor, the manner in which the injury was caused, as a result, the father of the informant took her to PMCH, got her admitted there and after her recovery, the second FIR being Patliputra P.S. Case No. 97 of 2016 was lodged. The malicious attitude of the husband of the informant gets reflected from the fact that in paragraph 2 of the plaint of Matrimonial Suit, it has been maliciously stated that the informant disclosed to her husband that she wanted to marry with the brother in law of her sister, hence, she does not want to stay with him. The informant is still ready to resume the conjugal life and is not ready to accept any alternative offer of the husband by way of monthly payment or one time settlement amount.

Considering the rival submissions of the parties, this Court is of the view that the relationship between the informant and her husband has reached to such an ebb, that resolution is not feasible and is a distant possibility, which gets reflected from the series of litigations, and the fact that this matter is being adjourned since last one year to enable them to resolve the issue but is of no



result. Moreover, the matter was referred to the mediation but the issue could not be reconciled even there.

Considering the fact that first case being Patliputra P.S. Case No. 452 of 2015 was registered simply under sections 498A and 379/34 of the IPC and sections 3 and 4 of Dowry Prohibition Act, whereas the second case being Patliputra P.S. Case No. 97 of 2016 was registered under sections 498A,324 and 307/34 of the IPC, though on conclusion of investigation accusation under sections 324 and 307/34 of the IPC has not been found true and the parents of the informant's husband seek bail only in the second case, let the above named petitioners Mithilesh Tiwari and Veena Tiwari 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) each with two sureties of the like amount each to the satisfaction of learned JM Ist Class, Patna in connection with Patliputra P.S. Case No.97 of 2016 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

So far as petitioner Rajnish Kumar, the husband of the informant is concerned, it is submitted by learned counsel for the petitioners that he is ready to make payment of Rs.12000/- per month from August, 2017 to the informant by second week of



every succeeding month. The petitioner will deposit the aforesaid amount before the learned Court below which will be invested in some fixed deposit scheme and the same will be subject to the result of the case or it will be released by the learned Court below in favour of the informant, if she files any such application for release of the said amount.

In the circumstances, with a view to save the informant from destitution and vagrancy and with a lurking hope that the issue may reconcile in future, let petitioner Rajnish Kumar be granted provisional anticipatory bail for a period of six months in both cases i.e. Patliputra P.S. Case Nos. 452 of 2015 and 97 of 2016, 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 JM Ist Class, Patna in connection with the abovementioned two cases, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. The bail bond of the petitioner Rajnish Kumar will be accepted on giving undertaking that he will appear before the learned court below regularly on each and every date. The provisional bail will be confirmed, if the trial is not concluded within six months without any laches on part of the petitioner or if the parties come



to an amicable settlement during such period. The provisional bail will not be confirmed by the learned Court below in case petitioner Rajnish kumar defaults for three consecutive occasions. The learned court below is not precluded to make an effort to resolve the issue or transmit the matter to mediation during trial. It is expected from the District Judge, Patna to get both the cases i.e. Patliputra P.S. Case No. 452 of 2016 and Patliputra P.S. Case No. 97 of 2016, transferred to one court within a period of three weeks from the date of receipt/production of a copy of this order and it is also expected that the trials of both the cases will be concluded within six months.

It is made clear that any observation made in this order will not be taken into account which may prejudice the case of either party during trial.

(Dinesh Kumar Singh, J)

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