

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15820 of 2017

Arising Out of PS.Case No. -27 Year- 2016 Thana -MAHILA P.S. District- SEKHPURA

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Sanjiv Kumar, Son of Sidheshwar Pandey, Resident of C/O-Subodh Kumar Pandey, Gali No.3, Mainpura Bagicha, LCT Ghat, Mainpura, Patna Sadar, Patna, Bihar, P.S.-Patliputra, Patna

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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with

Criminal Miscellaneous No.15825 of 2017

Arising Out of PS.Case No. -27 Year- 2016 Thana -MAHILA P.S. District- SEKHPURA

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Rajiv Kumar, Son of Sh. Chandramauli Pandey, Resident of Mohalla-Indra Nagar, Road No. 2, Postal Park, P.S. Jakkanpur, Distt. – Patna. Presently at Pandav Nagar, Radha Krishna Mandir, New Delhi, P.S.-Pandav Nagar, Delhi.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

(In Cr.Misc. No.15820 of 2017)

For the Petitioner/s : Mr. Satish Kumar

For the Opposite Party/s : Mr. Sri Manish Kumar-2

(In Cr.Misc. No.15825 of 2017)

For the Petitioner/s : Mr. Satish Kumar

For the Opposite Party/s : Mr. Sri Manish Kumar-2

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 19-08-2017 Heard learned counsels for the petitioners, informant and the State.

The petitioner of Cr. Misc. No. 15820 of 2017, Sanjiv Kumar being the husband of the informant and the petitioner of Cr. Misc. No. 15825 of 2017, Rajiv Kumar, being the



brother-in-law of petitioner Sanjiv Kumar are apprehending arrest in a case registered for the offences punishable under Sections 498A, 324, 506, 420, 406 and 376/511 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

The prosecution case got initiated on the written report of opposite party no.2/the informant, Vineeta Pandey that she got married with petitioner Sanjiv Kumar on 12.02.2015, but subsequent to marriage, there was a dispute with regard to demand of Scorpio vehicle as dowry, as the parents of the informant had provided Swift vehicle. Subsequently, the informant came to know that the petitioner Sanjiv Kumar is impotent, as a result, the marriage was never consummated. The petitioner Sanjiv Kumar tried to compel the informant to have physical relationship with his brother-in-law, Rajiv Kumar, who attempted to administer liquor to her.

It appears that initially, the case was registered under Sections 498A, 324, 506, and 420 of the IPC and Sections 3/4 of the Dowry Prohibition Act, but subsequently, on 16.02.2016, Sections 406 and 376/511 of the IPC were also added.

It is submitted by learned counsel for the petitioners that the petitioner Sanjiv Kumar admits his marriage with the informant on 12.02.2015. The informant herself deserted the



petitioner. The petitioner, Sanjiv Kumar filed Matrimonial Suit No. 130 of 2016 with a prayer for restitution of conjugal life, but subsequently, he came to know that the informant has performed second marriage with one Kundan Kumar on 04.07.2015. The photocopy of the marriage registration certificate of the informant with Kundan Kumar has been brought on record as Annexure-P/1. The petitioner Sanjiv Kumar has also filed Complaint Case No. 241C of 2017, with accusation under Sections 403, 494, 497, 379, 504, 506 and 120B of the IPC.

It is further submitted that there is no medical document on record to prove that any attempt was made by the petitioner Rajiv Kumar to establish forceful physical relationship with the informant. The FIR also does not stipulate the date of such accusation and Sections 376/511 of the IPC were added after about six months of initial registration of the FIR and the investigation is still pending.

It is submitted by learned counsel for the informant that the informant has been cheated by the petitioner Sanjiv Kumar, as he was impotent, but he did not disclose this fact to the informant prior to the marriage. The informant denies the factum of second marriage and after considering the issue of second marriage, this Court, vide order dated 15.05.2017, referred the matter to the



Mediation and Conciliation Centre of the Patna High Court, but the issue could not be reconciled in the Mediation centre, since the petitioners particularly petitioner, Sanjiv Kumar was not ready to return the articles including the jewellery of the informant, which gets reflected from the report of the Mediator, dated 04.08.2017, kept at flag-‘A’.

Considering the rival submission of the parties, this Court is of the view that the marriage between the petitioner Sanjiv Kumar and the informant is admitted and in the present proceeding, it is not possible for this Court to decide the factum of second marriage of the informant.

In the circumstances, it is submitted by learned counsel for the petitioners that petitioner Sanjiv Kumar is ready to make payment of Rs. 5,000/- per month to the complainant from September, 2017, by depositing the same in the bank account of the informant by second week of every succeeding month.

Learned counsel for the informant, on instruction, submits that informant is reluctantly ready to accept the offer of the petitioner Sanjiv Kumar, who undertakes to supply her bank account number to the petitioner Sanjiv Kumar, by submitting the same on affidavit before the learned Court below, within a period of three weeks.



Considering the nature of accusation, present stand of the parties and the fact that at present, there is no likelihood of issue being reconciled and the factum of second marriage being insisted by the petitioners, let the above named petitioners 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 Chief Judicial Magistrate, Sheikhpura in connection with Sheikhpura Mahila P.S. Case No. 27 of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

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

The petitioner will not be liable to make such payment, if he brings on record the substantial proof that the informant has performed second marriage.

Three consecutive defaults, in making payment by the petitioner Sanjiv Kumar, will give liberty to the informant to file appropriate application for cancellation of bail bond of petitioner Sanjiv Kumar.

The present order, in no way, will preclude the parties



to reconcile the issue otherwise.

(Dinesh Kumar Singh, J)

Amrendra/-

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