

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36071 of 2015

Arising Out of PS.Case No. -55 Year- 2015 Thana -RAMGARHWA District-
EASTCHAMPARAN(MOTIHARI)

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Nand Kishore Yadav Son of Late Indrasan Yadav resident of village -
Gudra, P.S. Majhauria, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Ragini Devi Wife of Nand Kishore Yadav and daughter of Kailash
Yadav resident of village - Bela, P.S. Ramgarhwa, District - East
Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. Chandra Bhushan Prasad (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

16/ 20-03-2017

Heard learned counsels for the petitioner,
informant-opposite party no. 2 and Mr. J.N. Thakur for the
State.

The petitioner being the husband of the
informant is apprehending his arrest in a case registered for the
offences punishable under Sections 147, 341, 342, 323, 307,
354, 379, 498A, 504 and 506 the Indian Penal Code.

The basic accusation is of torture and making
assault.

The petitioner and the informant are present in
the Court.

It is submitted by learned counsel for the
petitioner that the petitioner admits his marriage with the



informant 16-17 years prior to the lodging of the FIR and birth of a female child. It is further submitted that it is the informant who deserted the petitioner, thereafter petitioner filed Matrimonial Suit No. 322 of 2012 for restitution of conjugal life and ultimately filed Matrimonial Suit No. 145 of 2015 on 21.05.2015 with a prayer for divorce and thereafter the present FIR was registered on 01.06.2015. The petitioner tried to settle the dispute in terms of one time settlement amount by offering construction of two rooms dwelling house on five dhurs of land, making payment of Rs.3,500/- per month to the informant as maintenance and further transferring five kathas of land in favour of the informant. The petitioner also agreed to deposit Rs.2,00,000/- in a fixed deposit scheme in the name of his daughter Nisha Kumari and was also ready to make payment of Rs.1,000/- per month to his daughter for her education. Two supplementary affidavits were filed stipulating terms of agreement but the informant refused to sign on the joint affidavit. Hence, now the petitioner is not either ready to keep the informant or to make payment of one time settlement amount.

Learned senior counsel for the informant submits that the marriage between the petitioner and the



informant was performed 16-17 years prior to the lodging of the FIR but after the birth of a female child the torture was inflicted. Several attempts were made on the life of the informant. Petitioner has filed Majhulia P.S. Case No. 220 of 2015 against the family members of the informant levelling accusation under Sections 341, 379, 506/34 of the Indian Penal Code and 27 of the Arms Act whereas the servant of the petitioner has filed Complaint Case No. 1556 of 2016 against the informant making accusation under Sections 323, 341, 504, 506 of the Indian Penal Code and 3(1) (x) of SC/ST (Prevention of Atrocities) Act which reflects the malicious attitude of the petitioner. The petitioner has performed second marriage on 11.7.2016. This fact has been stated by the informant in paragraph 4 of the counter affidavit which reads as follows:-

“That on 11.7.2016 the petitioner performed his marriage with any unknown girl Utsaw Hall Chalaiya.”

The informant is ready to resume the conjugal life and is still ready to sign on the joint compromise petition stipulating the payment as well as transfer of land.

Considering the rival submissions of the parties, it appears that on the joint prayer of the parties vide order dated 24.10.2016 the matter was referred to Mediation and



Conciliation Centre of the State Legal Services Authority. The report of the Mediator dated 16.12.2016 at Flag 'X' reflects that the issue could not be reconciled through the process of mediation. The matter is pending before this Court since 07.08.2015 and several adjournments were granted allowing the parties to resolve the issue.

In view of the fact that the issue has not been resolved either by way of payment of one time settlement amount or by resuming the conjugal life, moreover, now the petitioner is not inclined to resolve the issue, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, the prayer for anticipatory bail of the petitioner is rejected in connection with Ramgarhwa P.S. Case No. 55 of 2015 pending in the court of learned Sub-divisional Judicial Magistrate, Raxaul, East Champaran at Motihari.

However, let the learned court below consider the prayer for bail of the petitioner, if the petitioner surrenders before the learned court below within a period of six weeks from today.

(Dinesh Kumar Singh, J.)

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