

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36577 of 2016

Arising Out of PS.Case No. -302 Year- 2015 Thana -COMPLAINT CASE District- KISANGANJ

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Md. Faiyaz Son of Jamal @ Jamaluddin resident of Pokharia P.S.
Begusarai, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Nazni Khatun D/o Late Md. Sulaiman resident of Runidhara, P.S.
Khanka, District- Kishanganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa

For the Opposite Party/s : Mr. Sri Rana Randhir Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

06/ 23-03-2017

Counsel for the complainant is permitted to
make necessary correction the counter affidavit.

Heard learned counsels for the petitioner,
complainant-opposite party no. 2 and Mr. Rana Randhir Singh
for the State.

The petitioner 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 498A, 120B of the Indian Penal Code and 4 of
Dowry Prohibition Act.

The complainant alleged that the petitioner



performed marriage with the complainant in the year, 2012 but after the marriage the complainant went to her in-laws house then she came to know that the petitioner was married from before with one Sabana Khatoon. Though the complainant has no proof with regard to the marriage as the Nikahana was kept by the petitioner but in the counter affidavit it has been submitted that the complainant filed Complaint Case No. 297 of 2013 against the family members of the petitioner with accusation under Sections 323, 341, 392, 354, 504 and 120B of the Indian Penal Code wherein petitioner was one of the witnesses but due to the intervention of the family members the issue was compromised. The compromise petition has been brought on record as Annexure-A. It has been submitted that first wife of the petitioner Sabana Khatoon filed Complaint Case No. 300C of 2013 with accusation under Section 498A of the IPC wherein it is alleged that the petitioner has performed second marriage with the complainant. In the said case petitioner and the complainant both filed bail application before learned Sessions Judge, Kishanganj vide A.B.P. No. 413 of 2013. It is also alleged that after the marriage with the petitioner complainant gave birth to a son namely Nazir, on 16.08.2013.

Learned counsel for the petitioner submits that



the petitioner denies the factum of marriage. It is further submitted that the wife of the petitioner Sabana Khatoon was instigated to file complaint case by the complainant. The petitioner denies the factum of the birth of child Nazir.

It is submitted by learned counsel for the complainant that the complainant is ready to get DNA of the child matched with her and the petitioner to substantiate the marriage.

Counsel for the petitioner submits that the petitioner agrees to the offer of the complainant.

Considering the nature of accusation and the factum of marriage is in dispute, let the above named petitioner be released on anticipatory bail **provisionally for six months** 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 Chief Judicial Magistrate, Kishanganj in connection with Complaint Case No. 302 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Both sides agree to appear along with the child before the learned court below on 10th of April, 2017 when the



learned court below will pass appropriate order for drawing of the blood sample for the DNA matching of the child Nazir to that of the petitioner and the complainant and get the matching done through some authorized recognized centre. On receipt of the DNA report if the DNA of the child does not match with the petitioner then the provisional bail of the petitioner will be confirmed by the learned court below, but if the DNA of the child gets matched with the petitioner then the petitioner will surrender and pray for bail. The learned court below will be at liberty to extend the period of provisional bail if there is delay in getting the DNA matching report without any default of the petitioner.

(Dinesh Kumar Singh, J.)

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