

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27537 of 2016

Arising Out of PS.Case No. -29 Year- 2016 Thana -MAHILA PS District- BUXAR

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Sanjay Kumar Gupta @ Sanjai Kumar Gupta @ Sanjai Gupta son of
Ramchandra Gupta alias Ramchandra Sao Resident of village- Chotaki
Sarimpur, P.S- Buxar Town, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Maya Devi, D/O- Bheem Gupta Resident of village- Koransarai, P.S-
Koransarai, District- Buxar.
3. Bhim Gupta, S/o Late Ram Lakhan Sao, R/o village – Koransarai, P.S. –
Koransarai, District – Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh

For the Opposite Party/s : Mr. Sri Sanjay Kumar Pandey

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

06/ 06-02-2017

Heard learned counsels for the petitioner, State
and the informant.

The petitioner being the husband of the
informant is apprehending his arrest in a case registered for the
offences punishable under Sections 341, 323, 504, 506, 498A of
the Indian Penal Code and 3/4 of Dowry Prohibition Act.

The basic accusation is of torture for non-
fulfillment of the further dowry demand of motorcycle and gold
chain. It is alleged that on 16.04.2016 the brother of the
informant came when the informant was ailing but he was also
assaulted and five thousand rupees was snatched and thereafter



the brother of the informant took the informant to her parents' house.

It is submitted by learned counsel for the petitioner that the petitioner is admits his marriage with the informant and birth of a child. On submission of learned counsel for the petitioner that the petitioner is ready to keep the informant as wife with full dignity and honour, statement to that effect has been made in paragraph no. 6 of the petition, which reads as follows:-

“That petitioner is husband and he is ready to keep his wife”

The Notices were issued to the informant-opposite party no. 2 when the notice could not served as the informant died on 08.09.2016 and thereafter the father of the informant was impleaded as opposite party no. 3 and on issuance of the notice he entered appearance. It is further submitted by learned counsel for the petitioner that as per the FIR itself the victim went to parents' house on 16.04.2016 where she was treated and died on 08.09.2016. The medical document brought on record on behalf of opposite party no. 3 does not reflect any injury as she died due to illness. It is further submitted that the impugned order dated 03.06.2016 passed in A.B.A. No. 353 of 2016 reflects that the informant Maya Devi



appeared before the learned court below but physical condition was so bad that that she was unable to walk and speak and she expressed her unwillingness to go to her husband's house as she was apprehending threats to her life at the hands of the petitioner. The relevant portion of the impugned order reads as follows:-

“The main allegation in the F.I.R. against the petitioner who is the husband of the informant Maya Devi. The informant Maya Devi is appeared before the court and her physical condition is not good. She is unable to walk and speak and she also submitted before the court that if she will go to her husband's house the petitioner and family members will kill her. The petitioner wants to solemnize his second marriage.”

It is submitted by learned counsel for the informant that the informant was tortured and was not provided medical assistance as a result her condition deteriorated. Though, the victim died at per parents' place on 08.09.2016 at PMCH, though she was admitted in the PMCH at the behest of her father but the petitioner did not bother to get her treated. The infant child will resides with the father of the informant and the infant child is very fearful due to the past conduct of the petitioner.



Counsel for the petitioner submits that the petitioner is ready to make payment of Rs.2,500/- per month from March, 2017 to the father of the informant for up bringing of the child including his education by depositing the same in the bank account of the father of the informant by second week of every succeeding month. Though petitioner is also ready to keep the child.

Counsel for the father of the informant submits that the father of the informant is ready to accept the offer of the petitioner and undertakes bank account number on affidavit before the learned court below within a period of three weeks.

Counsel for the father of the informant further submits that the father of the informant will allow the petitioner to meet the child once in a month in presence of two local Panchayat representatives, if the Panchayat representatives certify that the child is inclined to meet the petitioner. The father of the informant will file affidavit to this effect before learned court below within a period of four weeks.

Considering the present stand of the parties, let the above named petitioner be released on anticipatory bail 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, Buxar in connection with Buxar (Mahila) P.S. Case No. 29 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order being passed in any proceeding considering or deciding the issue of the custody of the child.

Opposite party no. 3 will be at liberty to file appropriate application for cancellation of the bail of the petitioner, if the petitioner defaults for three consecutive occasions in making payment.

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

(Dinesh Kumar Singh, J.)

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