

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50375 of 2015

Arising Out of PS.Case No. -510 Year- 2012 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

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Mahesh Singh @ Mahesh Kumar Singh son of Ram Krishna Singh resident
of village- Sahdeo Bujurg, P.S.- Desari, P.O.- Sahdeo Bujurg, District-
Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Nitu Kumari D/o Rajendra Ram, resident of Mohalla- Pokharia Ward
No. 37 PS-PO Begusarai Dist.- Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha, Advocate
For the Opposite Party/s : Mr. R.B.Roy Raman(App)
Mr. Kaushal Kishore, Advocate
Md. Azimuddin, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

15 14-02-2017 Heard learned counsels for the petitioner,

complainant and the State.

The petitioner being the husband of the complainant
is apprehending arrest in a complaint case wherein process has
been directed to be issued after cognizance being taken for the
offences punishable under Sections 498A, 406, 494 of the
Indian Penal Code and Section 3/4 of the Dowry Prohibition
Act.

Basic accusation is of torture for non-fulfillment of
dowry demand and performing second marriage.

It is submitted by learned counsel for the petitioner



that the petitioner admits his marriage with the complainant and birth of one male child. It is the complainant who deserted the petitioner, hence, the petitioner filed Matrimonial Suit No.98 of 2010 for restitution of conjugal life which was decreed vide judgment dated 01.07.2011 passed by the learned Principal Judge, Family Court, Vaishali, but the complainant did not resume the conjugal life. Thereafter, the petitioner filed Matrimonial Suit No. 180/2011 with a prayer for divorce, but the same got dismissed. The petitioner is still ready to keep the complainant as wife with dignity and honour, though statement to that effect has not been made in the petition. Moreover, the petitioner denies the factum of second marriage. A statement to that effect has been made in paragraph no.2 of the supplementary affidavit filed on 08.11.2016, which reads as :-

"....as a matter of fact, petitioner never married again as alleged by the O.P. No.2."

The petitioner also filed Interlocutory Application No.2163 of 2016 for quashing the order dated 07.05.2015 whereby the process has been issued against the petitioner under sections 82 and 83 of the Code of Criminal Procedure. Since the petitioner has challenged the said order in Cr. Rev. No.343 of 2016 before the learned Court below, this Court is not inclined



to entertain the interlocutory application. Accordingly, the interlocutory application is disposed of.

It is submitted by learned counsel for the complainant that the petitioner has performed second marriage and there is a female child also from the second marriage, hence, now the complainant cannot resume the conjugal life. Moreover, the petitioner is not appearing in the maintenance case filed by the complainant before the learned Court below as a result complainant is at the verge of destitution and vagrancy.

The matter is pending before this Court since 02.11.2015 and several efforts were made to get the issue reconciled, but the issue could not reconcile.

Considering the present stand of the parties and the fact that in a complaint case of 2012 even after issuance of process under sections 82 and 83 of the Cr.P.C., till date, the petitioner has not appeared, this Court is not inclined to enlarge the petitioner on bail.

However, let the learned Court below consider the prayer for regular bail of the petitioner keeping in view of the present stand of the petitioner without being prejudiced by the order of this Court, if the petitioner surrenders within a period of six weeks in connection with Complaint Case No.510C of



2012, pending before the learned SDJM, Begusarai.

With the above observation, this application is,
accordingly, disposed off.

(Dinesh Kumar Singh, J)

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