

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30033 of 2016

Arising Out of PS.Case No. -13 Year- 2016 Thana -MAHILA PS District- JEHANABAD

- =====
1. Nazis Pravin wife of Md Arman @ Golden
 2. Md. Arman @ Golden son of Md. Hasnainuddin
 3. Nasima Khatoon wife of Md. Sabbir @ Md. Sabbir Hussain All R/o Village- Bibipur, P.S.- Kako, District- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. Gudiya Khatoon wife of Md. Tamanna @ Pintoo, D/o Late Anwarul Haque, Resident of Bibipur, P.S.- Kako, District- Jehanabad.

.... Opposite Party/s

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With

Criminal Miscellaneous No.30036 of 2016

Arising Out of PS.Case No. -13 Year- 2016 Thana -MAHILA PS District- JEHANABAD

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Md. Tamanna @ Pintoo son of Md. Hasnainuddin R/o Village- Bibipur, P.S.- Kako, District- Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gudiya Khatoon wife of Md. Tamanna @ Pintoo, D/o Late Anwarul Haque, Resident of Bibipur, P.S.- Kako, District- Jehanabad.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.30033 of 2016)

For the Petitioner/s : Mr. Rakesh Kumar Jha

For the Opposite Party/s : Mr. Sri Jagdhar Prasad

(In Cr.Misc. No.30036 of 2016)

For the Petitioner/s : Mr. Rakesh Kumar Jha



For the Opposite Party/s : Mr. Sri Amit Kumar Rakesh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

08/ 16-03-2017

Heard learned counsels for the petitioners, State and the informant-opposite party no. 2.

The petitioner Md. Tamanna @ Pintoo of Cr. Misc. No. 30036 of 2016 being the husband of the informant and petitioners, Nazis Pravin, Md. Arman @ Golden and Nasima Khatoon of Cr. Misc. No. 30033 of 2016 being brother, brother's wife and brother's mother-in-law are apprehending their arrest in a case registered for the offences punishable under Sections 323, 498A, 307, 379, 504/34 the Indian Penal Code and 4 of Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand and making assault. It is specifically alleged that petitioner Md. Arman @ Golden (brother of the husband of the informant) entered into the room of the informant on 25.03.2016 at 9.00 P.M. in intoxicated condition and assaulted the informant, thereafter petitioner Nazis Pravin (wife of Md. Arman) got kerosene oil poured on the informant when the brothers of the informant namely, Md. Iqbal and Md. Arshad came to rescue then they were assaulted by the accused persons. Petitioners Md. Arman, Nazis Pravin



and Nasima Khatoon pulled down the informant by catching hold of her hair and assaulted her knowing that she was pregnant. Thereafter, effort was made to reconcile the issue but the accused persons did not allow the informant to reside in the house. Hence, ultimately the present case was lodged.

Learned senior counsel for the petitioners submits that the petitioner Md. Tamanna @ Pintoo admits his marriage with the informant having no issue. The accusation of assault is omnibus and general whereas only injury caused to the brother of the informant Md. Iqbal has been found hair line crack. Hence, it cannot be said who caused the said injury. Moreover, the petitioners were also assaulted, though petitioners' side injury report has not been brought on record.

On the joint prayer of the parties vide order dated 02.12.2016 the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority. The report of the Mediator at Flag 'M' dated 27.01.2017 reflects that the issue got resolved as the parties have decided to live separately on payment of one time settlement amount of Rs.3,25,000/- by the husband of the informant, Md. Tamanna @ Pintoo in three installments. The first installment of Rs.1,05,000/- was to be paid at the time of filing of matrimonial



suit for divorce. The second installment of Rs.1,05,000/- was to be paid at the time of statement being recorded in the matrimonial suit. The third and the last installment of Rs.1,15,000/- was to be paid at the time of passing of the decree in matrimonial suit. It was also undertaken by the husband of the informant that he will return all the articles given at the time of marriage.

It is submitted by learned senior counsel for the petitioners that the husband of the informant has returned 54 articles except the jewellery but now he is not in such a financial condition to make payment of Rs.3,25,000/- or the cost of jewellery which is claimed to be worth rupees two lakhs. Though, the said undertaking was given in view of the fact that the husband of the informant was offered rupees three lakhs fifty thousand as price of his house but now he is only getting Rs.2,50,000/-. In the circumstances, husband of the informant is not able to comply the undertaking. It is further submitted that the petitioner Md. Tamanna @ Pintoo is still ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in paragraph 6 of Cr. Misc. No. 30036 of 2016 which reads as follows:-

“That the petitioner is ready to keep the victim opposite party no. 2 with all dignity



and respect and ready to maintain her.”

Counsel for the informant submits that the informant was brutally assaulted and the brother of the informant received one grievous injury. The husband of the informant has agreed during mediation to make payment of Rs.3,25,000/- and return all the articles including jewellery, but the same has not been returned. The informant is not ready to accept the offer of her husband of resuming conjugal life as she is apprehensive due to the past conduct of her husband

Mr. J.N. Thakur, learned counsel for the State after going through the case diary submits that though the accusation of assault is omnibus and general against all the accused persons but the thrust of accusation is against the husband of the informant. One of the injuries of the brother of the informant has been found grievous though, the injury of informant has been found to be simple in nature.

Considering the fact that the matters are pending before this Court since 22.07.2016 and serious effort has been made to get the issue reconcile but in spite of the fact that issue got resolved during mediation as the husband of the informant MD. Tamanna @ Pintoo undertook to make payment of one time settlement amount of rupees three lakhs twenty five



thousand in three installments and return all the articles of the informant but failed to comply the terms of agreement reached during mediation, this Court is not inclined to grant anticipatory to petitioner Md. Tamanna @ Pintoo of Cr. Misc. No. 30036 of 2016. Hence, his prayer for anticipatory bail is rejected.

Let the learned court below consider the prayer for bail of petitioner Md. Tamanna @ Pintoo, if he surrenders before the learned court below within a period of six weeks from today.

Considering the fact that though one of injuries caused to Md. Iqbal, the brother of the informant, has been found grievous but in view of that fact that the accusation of assault to the informant and her brothers is omnibus and general against the petitioners of Cr. Misc. No. 30033 of 2016 and also keeping in view of the fact that the thrust of accusation is against the husband of the informant who in spite of giving undertaking during mediation failed to comply the same, let the above named petitioners of Cr. Misc. No. 30033 of 2016 be released on anticipatory bail in the event of their 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 Sub-divisional Judicial Magistrate, Jehanabad in connection with Jehanabad (Mahila) P.S. Case No. 13 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The learned court below will be at liberty to cancel the bail bonds of the petitioners, if petitioners default for three consecutive occasions during trial.

(Dinesh Kumar Singh, J.)

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