

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29723 of 2016

Arising Out of PS.Case No. -55 Year- 2016 Thana -RIVILGANJ District- SARAN

=====

Chandan Singh @ Chandan Kumar Singh

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund

For the Opposite Party/s : Mr. Kalyan Shankar

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 11-05-2017 Heard learned counsels for the petitioner, informant and the State.

The petitioner being husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 323,498A and 379 of the Indian Penal Code.

The basic accusation is of torture.

The petitioner and the informant are present in court.

On submission of learned counsel for the petitioner that the petitioner is ready to keep the informant as his wife with full dignity and honour, notices were issued to O.P. No. 2, vide order dated 21.7.2016. Learned counsel for the petitioner submits that the petitioner admits his marriage with the informant on 28.4.2003 and birth of a female child. The



petitioner filed H.M.A. No. 960 of 2015 before the court of the learned Principal Judge (South-East), Family Court, Saket, New Delhi with a prayer for divorce, wherein, notices were issued to the informant vide order dated 14.9.2015, whereas, the informant filed the complaint case on 16.12.2015 which came to be registered as Rivilganj P.S. Case No. 55 of 2016 on 23.3.2016, i.e., the present case. It is further submitted by learned counsel for the petitioner that though initially submission was made that the petitioner is ready to keep the informant as his wife but right now the petitioner is not ready to keep her as he is apprehensive of the past conduct of the informant.

On joint prayer of the parties, the matter was referred to Mediation. The report of Mediator, dated 9.5.2017, at Flag B reflects that the issue could not be resolved through the process of mediation.

A supplementary affidavit has been filed on behalf of the petitioner stating therein that the petitioner has one and half bighas of share in the landed property at the native place and he is ready to relinquish the same in favour of the informant. The informant and her daughter are residing in the house of the petitioner at the native place and he is not going to disturb them. More over, the petitioner is ready to pay Rs.8000/- per month



subject to favourable decision in the divorce case and the O.P. No. 2 withdraws the criminal case filed against the petitioner. Paragraph 4 of the supplementary affidavit filed by the petitioner reads as follows:

“4. That I am petitioner in this case and I am prepared to compromise the case on following terms and conditions:-

I. I have 50% share in the ancestral property including residential house in favour of Opposite Party No.2 and minor daughter. The total land is about 3 Bigha out of which the petitioner has his share about 1 ½ Bigha land.

II. Opposite Party No. 2 and minor daughter is already residing in the house at my native village and they shall continue to reside therein and they shall never be asked to vacate. The petitioner is not relinquishing his right to reside in the ancestral house.

III. I shall pay 8000 per month maintenance subject favourable decision in the divorce case bearing H.M.A. No. 960 of 2015 pending in the court of Principal Judge, Family Court, Saket, New Delhi. I shall also co-operate economically in the education and marriage of the minor daughter.

IV. The Opposite party No. 2 shall withdraw the Revilganj P.S. Case No. 55/2016 and she shall not file any other



criminal case either herself or through any other relative relating to matrimonial dispute. I also undertake to not to file any criminal case against the Opposite Party No. 2.

V. The relinquishment of landed property shall be taken into account for fixation of permanent alimony if the divorce case is decided favourably.”

Learned counsel for the informant submits that the marriage between the petitioner and the informant and birth of a female child are admitted. The informant is ready to resume the conjugal life and she is not ready to accept any other offer except resumption of conjugal life which is reflected in para 5 of the supplementary affidavit filed on behalf of the O.P. No.2. The petitioner filed the matrimonial suit at New Delhi with a deceptive address. Petitioner is the adopted son of his parents and he has not got any share in the ancestral property until the partition is being done. Hence, the averments made in the Supplementary Affidavit with regard to giving share of one and half bighas of land and payment of rupees eight thousand per month to the informant are also deceptive.

However, the petitioner is ready to make payment of Rupees fifteen thousand per month from June, 2017 for the welfare of the informant and child by depositing the same in the



bank account of the informant by second week of every month. He will also not disturb the occupancy of the informant from the ancestral house. Learned counsel for the informant submits that very reluctantly the informant is ready to accept the offer of the petitioner and undertakes to submit her bank account number to the petitioner within three weeks by submitting the same on affidavit before the learned court below.

Considering the present stand of the parties, the filing of matrimonial suit at earlier point of time and in order to save the informant and her child from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the above named petitioner be released on anticipatory bail in the event of 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 ACJM, Saran at Chapra in connection with Revilganj P.S. Case No. 55 of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid payment will be subject to any order being passed in matrimonial or maintenance or other collateral proceeding.

Three consecutive defaults in making payment by



the petitioner will give liberty to the informant to file an application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J)

Anil/-

U		T	
---	--	---	--

