

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37037 of 2016

Arising Out of PS.Case No. -326 Year- 2014 Thana -COMPLAINT CASE District- SHEOHAR

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Vidyanand Dubey son of Vyash Dubey Resident of Village - Jatauliya,
Police Station - Kundwa Chainpur, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Manju Kumari @ Manju Devi wife of Vidyanand Dubey, D/o Gauri Shankar Pandey At present R/o Village - Masaudha, Police Station - Piprahi, District - Sheohar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

07/ 09-03-2017

Heard learned counsels for the petitioner, complainant-opposite party no. 2 and Mr. J.N. Thakur, learned counsel for the State.

The petitioner is apprehending his arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner that the petitioner denies the factum of marriage between the petitioner and the complainant. The sister of the petitioner namely, Rekha Devi was married with the brother of the complainant, namely, Sunil Pandey and the sister of the petitioner



filed Complaint Case No. 734 of 2013 which was ultimately got registered as Kundwa Chainpur P.S. Case No. 97 of 2013 on 22.09.2013 under Sections 323, 504, 379, 498A of the Indian Penal Code and 3/4 of Dowry Prohibition Act and thereafter the present complaint has been filed on 29.08.2014 and there is no proof of marriage but as a retaliatory measure the present case has been lodged. It is further submitted that in the year 2013 the petitioner never admits his marriage with the complainant rather the specific averment of the petitioner in paragraph 7 of the petition that the petitioner has not married with the complainant. Statement made in paragraph 7 of the petition reads as follows:-

“That it is important to mention here that it is not true that the petitioner got his marriage with Manju Devi (complainant) rather the petitioner got his marriage five years ago with Puja Kumari and leads good marital relations.”

The complainant is disabled by both legs. The petitioner got married with one Puja Kumari.

Counsel for the complainant submits that the petitioner was married with the complainant on 16.01.2013. The marriage was performed at Baba Ishan Nath Dmami Math Belsand, Sitamarhi and a certificate to that effect has been issued which has been brought on record as Annexure-A to the counter affidavit. The Panchayat Mukhiya of Gram Panchayat Raj



Mesaudha has also given certificate which has been brought on record as Annexure-B. The complainant is still ready to resume the conjugal life.

Considering the rival submissions of the parties since the factum of marriage is in dispute, 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 bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Sheohar in connection with Complaint Case No. C-1-326 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is expected from the learned trial court to conclude the trial within a period of nine months without giving unnecessary adjournment to either party. If the petitioner fails to appear on three consecutive occasions during trial then the learned trial court will be at liberty to cancel the bail bonds of the petitioner.

(Dinesh Kumar Singh, J)

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