

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41436 of 2016

Arising Out of PS.Case No. -519 Year- 2012 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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Pankaj Sharma @ Ram Raushan Sharma son of Katboru Sharma Resident of Village- Nai Basti, Behind Adhor Sewa Sadan, Dala Cement Factory, Police Station- Chopan, District- Son Bhadra (Uttar Pradesh).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sangita A. Sharma wife of Pankaj Sharma @ Ram Raushan Sharma, D/o Anirudh Sharma Resident of Village- Nai Basti, Behind Adhor Sewa Sadan, Dala Cement Factory, Police Station- Chopan, District- Son Bhadra (Uttar Pradesh). At present Resident of Mohalla- Quarter No. 5089 D, D.S. Colony, Samastipur, East Central Railway, Samastipur, Police Station- Samastipur, District- Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rana Sanjay Kumar Singh

For the Opposite Party/s : Mr. Md. Sufiyan

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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 being the husband of the complainant is apprehending his arrest in a complaint case wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 498A and 504 of the Indian Penal Code.

The basic accusation is of torture.



It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of a child. It is the complainant, who deserted the petitioner, the petitioner has filed Matrimonial Suit No. 420 of 2012 for restitution of conjugal rights, but the complainant chose not to appear. The petitioner is ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 14 of the petition, which reads as follows:-

“That the petitioner is ready to keep her wife complainant with full honour and dignity.”

It is submitted by learned counsel for the complainant that the complainant is not ready to accept the offer of the petitioner of resuming conjugal life since she is apprehensive due to the past conduct of the petitioner. She has to maintain herself and her child and has not source of income.

Though, the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority on the joint prayer of the parties vide order dated 18.10.2016 but it appears from the report of the Mediator dated 23.12.2016 at Flag ‘X’ that the issue could not be reconciled basically due to the non-appearance of the complainant.



Counsel for the petitioner submits that, in alternative, the petitioner is ready to make payment of Rs.3,000/- per month from April, 2017 to the complainant by depositing the same in her account by second week of every succeeding month.

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

Considering the rival submissions of the parties, in order to save the complainant and minor 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 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, Samastipur in connection with Complaint Case No. 519 of 2012, 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 passed in matrimonial, maintenance or connected



proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file 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.)

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