

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40836 of 2016

Arising Out of PS.Case No. -144 Year- 2016 Thana -MAJHAHGARH District- GOPALGANJ

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Md. Samsheer @ Samsheer @ Shamsheer Alam @ Mintu @ Md. Shamser Son
of Hasmuddin Sai, Resident of Village- Bhawaniganj, Police Station-
Manjhagarh, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Salaitoon Khatoon daughter of Mainuddin Sai, Resident of Village-
Dumra, Police Station- Jamo Bazar, District- Siwan, At present:
Resident of Village- Bhawaniganj, Police Station- Manjhagarh, District
Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh

For the Opposite Party/s : Mr. Sri Damodar Prasad Tiwary

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

05/ 23-03-2017 Heard learned counsels for the petitioner,
informant-opposite party no. 2 and Mr. Damodar Prasad Tiwary
for the State.

The petitioner being the husband of the
informant is apprehending his arrest in a case registered for the
offences punishable under Sections 341, 323, 498A of the
Indian Penal Code and 3/4 of Dowry Prohibition Act.

The basic accusation is of torture for non-
fulfillment of the dowry demand.

The petitioner and the informant are present in
the Court.



Learned senior counsel for the petitioner submits that the petitioner admits his marriage with the informant having no issue but the petitioner has given Talak to the informant and endorsement to that Talak has been issued by 'Imarate Sariya', Phulwarisharif.

Learned counsel for the informant submits that the informant denies the factum of Talak and is still ready to resume conjugal life.

In view of the fact that the impugned order dated 22.08.2016 passed by learned Sessions Judge, Gopalganj in A.B.P. No. 3143 of 2016 reflects that the mediation could not held since informant failed to appear before the Mediator as result on the joint prayer of the parties this Court vide order dated 20.09.2016 referred the matter to the Mediation and Conciliation Centre of the Bihar State Legal Services Authority. The report of the Mediator dated 21.11.2016 at Flag 'A' reflects that the issue could not be resolved through the process of mediation.

Considering the rival submissions of the parties, particularly, submission of learned senior counsel for the petitioner that after Talak the petitioner cannot keep the informant as wife as per 'Sairiyat' law, hence, the issue is not



likely to be resolved, for the present.

Counsel for the petitioner, in alternative, submits that the petitioner, at present, is ready to make payment of Rs.4,000/- per month from May, 2017 to the informant by depositing the same in her account by second week of every succeeding month.

Counsel for the informant submits that the informant, reluctantly, accepts the offer and undertakes to submit the bank account number on affidavit before the learned court below within a period of three weeks and in the circumstances, at present, she is not opposing the prayer for anticipatory bail of the petitioner.

Considering the rival submissions of the parties, particularly, the present stand, in order to save the informant, at present, 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, Gopalganj in connection with Manjhagarh P.S. Case



No. 144 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The abovementioned payment will have no bearing with regard to the factum of Talak.

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 informant 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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