

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.58390 of 2015

Arising Out of PS.Case No. -1882 Year- 2014 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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Gorakh Prasad Bhagat Son of Late Jagdish Prasad Bhagat Resident of
Village - Barharwa, Bhagat & Company Hat Para Road, P.S.- Barharwa,
District - Sahebganj, (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Vandana Bhagat Wife of Gorakh Prasad Bhagat Resident of D/o- Jai
Kishan Prasad Thakur Bhawan, Ward No. 15, Koat Bazar Nagar
Parishad, Sitamarhi, P.S. + District - Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Dinesh Jha, Advocate
For the O. P. No. 1 : Mr. J.N. Thakur,APP
For the O. P. No. 2 : Mr. Dr. Uma Shankar Prasad, Sr. Advocate
Mr. Kamala Kant Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

10/ 23-03-2017

Heard learned counsels for the petitioner,
complainant-opposite party no. 2 and Mr. J.N. Thakur 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 of the Indian Penal Code and 4 of Dowry Prohibition Act.

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

The petitioner and the complainant are present in the Court.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant on 05.03.1979 having no issue. The petitioner has performed second marriage with the consent of the complainant after 14 years of the marriage with the complainant there was no issue out of the wedlock. The petitioner is still ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 12 of the petition which reads as follows:-

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

It is submitted by learned senior counsel for the complainant that since there was no issue out of the wedlock, hence, the petitioner and the complainant adopted the son of younger brother of the petitioner but thereafter maliciously the petitioner performed second marriage on 17.05.1993 with



Punam Bhagat, thereafter the torture was inflicted and consequently on 11.10.2014 the complainant was assaulted by the petitioner and thereafter the complainant and adopted son were driven out from the matrimonial house which led to filing of the present complaint.

It appears from the record that on the joint prayer of the parties vide order dated 02.05.2016 the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority. The report of the Mediator dated 02.08.2016 at Flag 'X' reflects that the issue could not be resolved through the process of mediation. The matter is being adjourned since last one year allowing the parties to resolve the issue. Though, the cognizance has not been taken under Section 494 of the IPC but it is admission of the petitioner that he has performed second marriage. In the circumstances, the chance of issue being reconciled appears to be not feasible.

In the circumstances, learned counsel for the petitioner submits that the petitioner is ready to make payment of Rs.7,000/- per month from May, 2017 to the complainant by depositing the same in her account by second week of every succeeding month.

Learned senior counsel for the complainant



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

Considering the present stand of the parties, in order to save the complainant 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 Sub-divisional Judicial Magistrate, Sitamarhi, Sadar in connection with Complaint Case No. C-1/1882 of 2014, 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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