

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42248 of 2016

Arising Out of PS.Case No. -1208 Year- 2015 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Baliram Pd. Gupta @ Baliram Kr. Gupta @ Baliram Pd. son of Bhagwat
Sah resident of Village Machhagar Lachhiram, P.O. and P.S. Hathua,
District Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Tara Devi wife of Baliram Prasad Gupta resident of Village Machhgar
Lachhiram, P.O. and P.S. Hathua, District Gopalganj, At present
residing at Village Kabirpur, P.S. Mairawa District Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Vardhan Narayan

For the Opposite Party/s : Mr. Smt. Asha Kumari

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

06/ 09-03-2017

Heard learned counsels for the petitioner and the
State. None appears on behalf of complainant-opposite party
no.2.

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 the Dowry



Prohibition Act.

The basic accusation is of torture.

Notices were issued to the complainant vide order dated 05.10.2016. The office note dated 18.01.2017 reflects that the ordinary process of notice has been served on the counsel of opposite party no. 2 appearing before the learned court below. Thereafter, on 20.01.2017 and 09.02.2017 the matter was adjourned but none appeared on behalf of opposite party no. 2. In the circumstances, notices issued to opposite party no. 2 will be treated as deemed valid service. The order dated 09.02.2017 it was submitted by learned counsel for the petitioner that opposite party no. 2 has performed second marriage and thus the opposite party no. 2 is not appearing.

A second supplementary affidavit has been filed to the effect that the complainant-opposite party no. 2 has performed second marriage with one Umesh Kumar S/o Late Ram Chandra Prasad on 12.12.2016. The wedding card of such marriage has been brought on record as Annexure-3. The Sarpanch of the village has given a certificate to that effect also. The same has been brought on record as Annexure-4. The Panchayat Mukhiya of the concerned Panchayat has also issued a certificate to that effect. The same has been brought on record



as Annexure-5 to the second supplementary affidavit.

However, the petitioner is admits his marriage with the complainant and is ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 3 of the supplementary affidavit, which reads as follows:-

“That the petitioner undertakes to keep his wife with full honour respect and regard, love and affection.....”

Though the petitioner has filed Matrimonial Suit No. 84 of 2015 with a prayer for divorce but he is ready to withdraw the same, if the complainant appears and show her willingness to resume the conjugal life.

Considering above stand of the petitioner and the fact that the matter is pending before this Court since 27.09.2016 when the complainant chose not to appear in spite of the service of notice upon her lawyer appearing before the learned court below, 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, Gopalganj in connection with Complaint Case No. 1208 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J.)

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