

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35642 of 2016

Arising Out of PS.Case No. -3202 Year- 2013 Thana -SARAN COMPLAINT CASE District-
SARAN

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Samshad Ali Son of Hajarat Ali Resident of Bhagar, P.S. Siwan, District
Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. Hasim Ansari R/o Sitalpur, via Bareja, P.S Daudpur, District Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar Tiwary

For the Opposite Party/s : Mr. Dr. Rabindra Kumar

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

ORAL ORDER

10/ 22-06-2017

Heard learned counsels for the petitioner, State
and opposite party no. 2.

The petitioner being the husband of the
complainant 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 Sections 498A
and 494 of the Indian Penal Code.

The prosecution case got initiated on the basis
of Complaint Case No. 3202 of 2013 filed by the complainant
on 08.10.2013, wherein it is alleged that the complainant was
married about seven years prior to the filing of the complaint.
For one year after her marriage she was treated well by the
accused persons. Subsequently, further demand of Rupees One



Lakh was made and on non-fulfillment of the same the torture was inflicted upon the complainant. Three years prior to the filing of the complaint the complainant was driven out from matrimonial house after snatching all her belonging including ornaments, thereafter she started residing at her parents' house. Subsequently, the complainant filed maintenance case before the Principal Judge, Family Court, Chapra, thereafter the petitioner reconciled the issue. Consequently, the complainant started residing at her matrimonial house but again on 01.10.2013 at 10.00 A.M. the accused persons assaulted the complainant and drove her out from the matrimonial house. Thereafter, the father of the complainant along with some relatives went to the house of the petitioner to get the issue reconciled but the accused persons were ready to reconcile the issue only on fulfillment of dowry demand of Rupees One Lakh. It is further alleged that the petitioner has performed second marriage. Consequently, considering the S.A. of the complainant and the statement of the enquiry witnesses, the process was issued after finding a prima facie case for offences under Sections 498A and 494 of the Indian Penal Code.

The order dated 04.10.2016 reflects that on submission of the counsel for the petitioner to the effect that the complainant died on 04.07.2015 at her parents' house. The



counsel for the petitioner was permitted to implead the father of the complainant as opposite no. 2 and accordingly, this Court vide order dated 04.10.2016 issued notice to the father of the complainant.

It is submitted by learned counsel for the petitioner that since the complainant deserted the petitioner, hence, he performed second marriage which is permissible under the Mohamden Law. However, as per own admission of the complainant in the complaint petition, she was residing at her parents' house and after filing of complaint she died on 04.07.2015 at her parents' house, though the complaint was filed in 2013.

Counsel for the opposite party no. 2 submits that the complainant was tortured and petitioner has performed second marriage, but admits that the complainant died at her parents' house.

Considering the rival submissions of the parties keeping in view the fact that the accusation of further demand of dowry was made after seven years of marriage and admittedly the complainant was residing at her parents' house since 2013 and died on 04.07.2015, 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, Saran at Chapra in connection with Complaint Case No. 3202 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The learned court below will be at liberty to cancel the bail bond of the petitioner, if the petitioner fails to appear on three consecutive occasions.

(Dinesh Kumar Singh, J.)

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