

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43556 of 2016

Arising Out of PS.Case No. -21 Year- 2016 Thana -MAHILA THANA District- BEGUSARAI

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Riza Ahmad Son of Fazle Ahmad Resident of village- Gurudaspur, P.S.-
Mansoorchak, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Juhi Khatoon Daughter of Jalal Khan and wife of Riza Ahmad Resident
of village- Muzaffra, P.S.- Birpur, District- Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha

For the Opposite Party/s : Mr. J.N. Thakur, APP

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

06/ 20-06-2017

Heard Mr. Jitendra Narayan Sinha, learned

counsel for the petitioner, Mr. Birendra Kumar Singh, learned

counsel for the informant-opposite party no. 2 and Mr. J.N.

Thakur, learned counsel 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 498A and 313 of the Indian
Penal Code.

On the joint prayer of the parties vide order
dated 23.01.2017, the matter was referred to the Mediation and
Conciliation Centre of the State Legal Services Authority. The
report of the Mediator dated 18.04.2017 at Flag 'Z' reflects that
the issue could not be resolved through the process of



mediation.

The prosecution case got initiated on the basis of written report of the informant to the effect that she got married to the petitioner at about four years prior to the lodging of the present FIR. After the marriage the torture was inflicted by way of abuse and assault. The petitioner twice got the pregnancy of the informant terminated by giving her some medicines and used to give threat that he will divorce her. On the basis of the aforesaid accusation Begusarai Mahila P.S. Case No. 21 of 2016 was registered under Sections 498A and 313 of the Indian Penal Code on 06.06.2016.

It is submitted by learned counsel for the petitioner that it was the informant who was not ready to resume the conjugal life as a result in presence of Punches the issue was resolved by way of parting ways and petitioner has returned all the articles of the informant including Den Mohar. The agreement has been brought on record as Annexure-2. It is further submitted by learned counsel for the petitioner that neither any date of termination of pregnancy has been specified nor the medical document to that effect has been brought on record, hence, no offence under Section 313 IPC is made out. The petitioner has given Talaq and hence, now resuming the



conjugal life does not arise. However, the petitioner is ready to make payment of Rs.2,000/- per month from July, 2017 to the informant by depositing the same in her bank account by second week of every succeeding month.

Counsel for the informant submits that the informant denies the factum of Talaq and also denies her signature on agreement which has been brought on record by way of Annexure-2. The informant is still ready to resume the conjugal life but reluctantly she is ready to accept the offer of the petitioner of monthly payment and undertakes to submit her bank account number on affidavit before the learned court below within a period of three weeks.

In the circumstances, in the present proceeding it is difficult to decide the factum of Talaq and the agreement arrived at between the parties.

In the circumstances, keeping in view of the fact the present stand of the petitioner of making monthly payment in order to save the informant from destitution and vagrancy for the present 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, Begusarai in connection with Begusarai Mahila P.S. Case No. 21 of 2016, 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 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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