

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46289 of 2016

Arising Out of PS.Case No. -270 Year- 2016 Thana -TURKAULIYA District-
EASTCHAMPARAN(MOTIHARI)

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Tabarak Mansoori @ Tabarakh Husen Son of Basaruddin Mansoori resident
of Village- Hasanpur, P.S.- Kotwa, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sayra Khatoon daughter of Full Mohammad Ansari resident of Village-
Charganha, P.S.- Turkauliya, District- East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. Sri Bharat Lal

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

07/ 07-07-2017

Heard Smt. Rashmi Jha, learned counsel for the
petitioner, Mr. Anand Mohan Jha, 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, 313, 328, 384, 406,
420, 452, 467, 458/34 of the Indian Penal Code and sections 3/4
of Dowry Prohibition Act.



The basic accusation is of torture for non-fulfillment of the dowry demands and causing burn injury with butt of cigarette. It is also alleged that after getting the gender determination of foetus by the accused, the informant was administered some medicine, as a result the pregnancy got terminated.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant on 16.05.2014. For sometime the conjugal life continued happily but thereafter the informant deserted the petitioner. The informant took Talaq on receiving of Rs. Two lakhs as Den Mohar amount in presence of the witnesses. The Talaknama has been brought on record as Annexure-2 to the petitioner. There has been no issue out of the wedlock and there is nothing on record to suggest that the informant received any injury or the pregnancy got terminated. It is further submitted that the petitioner has not performed second marriage. Statement to that effect has been made in paragraph 10 of the petition which reads as follows:-

“That the petitioner Tabarak Ansari has not solemnized second marriage.”

In view of the being effective Talaq the



petitioner is not in a position to keep the informant as wife as, at present, she has no legal status as wife of the petitioner.

Counsel for the informant submits that the marriage between the petitioner and the informant is admitted. The pregnancy was terminated since petitioner did not want a female child. The informant denies the factum of Talaq and is still ready to resume conjugal life.

On the joint prayer of the parties vide order dated 06.02.2017 the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority but the mediation failed due to the adamant attitude of the petitioner.

Learned counsel for the petitioner, however, submits that since the informant has given Talaq he is not in a position to keep the informant but he is ready to make payment of Rs.2,000/- per month from August, 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 reluctantly accepts the offer of the petitioner and undertakes to submit her bank account number on affidavit before the learned court below within a period of four weeks.



Considering the present stand of the parties, particularly, the present payment by the petitioner will at least save the informant for the 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, Motihari, East Champaran in connection with Turkauliya P.S. Case No. 270 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 on the claim of the petitioner that he has given Talaq to the informant.

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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