

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45871 of 2016

Arising Out of PS.Case No. -133 Year- 2016 Thana -BAHERI District- DARBHANGA

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Pawan Kumar, son of Kishori Thakur, resident of Village- Feint, P.S.-
Basopatti, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. Pushpa Kumari, Daughter of Rajgir Yadav, resident of Village-
Hanumaan Nagar, Post- Waskaththi, P.S.- Baheri, District- Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar

For the Opposite Party/s : Mr. Sri Aditya Narayan Singh 1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

10/ 08-08-2017 Heard learned counsels for the petitioner,
informant-opposite party no. 2 and Mr. J.N. Thakur for the
State.

The petitioner is apprehending his arrest in a
case registered for the offences punishable under Sections 420,
498A, 494, 313, 341, 323, 504, 506 of the Indian Penal Code
and Sections 3/4 of Dowry Prohibition Act.

The prosecution case got initiated with the
written report of the informant-opposite party no. 2 dated
06.07.2016 addressed to the Officer-in-charge, Baheri Police
Station to the effect that in 2012, the informant was a student of
Class-IX aged about 14 years but she was in love with the



petitioner, who was a teacher in the school, where the informant was studying. On 28.02.2013, the petitioner induced the informant and took her to Darbhanga where he established physical relationship with the informant, but when this fact came within the knowledge of the parents and other villagers, the petitioner agreed to get married with the informant but he demanded eighty thousand rupees as dowry, which was paid by the father of the informant. On 26.02.2014, the petitioner performed marriage with the informant at Baidyanath Dham Temple, Deoghar in presence of the parents of the informant and few other people. After the marriage, the informant and petitioner began residing in a rented house at Darbhanga. In the meantime, the informant became pregnant, but the pregnancy was terminated deliberately by the petitioner by administering some medicine to her. Subsequently, on the basis of a telephone call received on the mobile phone of the petitioner, the informant came to know that the petitioner is already married. The informant protested in this regard before the petitioner, upon which the petitioner began torturing her and on 26.05.2016 the petitioner fled away after leaving the informant in the rented house. Such circumstances led to the filing of the report, consequently Baheri P.S. Case No. 133 of 2016 was



registered for the offences punishable under Sections 420, 498A, 494, 313, 341, 323, 504, 506 of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act and the investigation is still pending.

It is submitted by learned counsel for the petitioner that since the petitioner was posted as a teacher in the village of the informant, he was pressurized for marrying the informant, despite the fact that he had conveyed it to all the persons that he is already married. The signature of the petitioner was forcibly obtained on a paper and the same was filed in the Court, containing averments to the effect that the marital relationship is still subsisting between the petitioner and the informant and that the petitioner wants to keep the informant with full dignity and honour in a rented house. He further submits that, though, a joint bank account was opened in the name of the petitioner and the informant, but the same was done under duress and threat of life. In the circumstances, the petitioner is not ready to keep the informant. It is further submitted that there is no medical report on the record to suggest that the pregnancy was ever terminated at any point of time. The photographs of the marriage are manufactured and hence, no offences either under Section 494, 498A, 313 of the



IPC and Dowry Prohibition Act are made out.

Learned counsel for the informant submits that it appears very unreasonable that the petitioner and the informant were residing in a rented house, as husband and wife but on the contrary, the petitioner claims that he never married the informant. The informant was a student in the school, where the petitioner was a teacher and she was minor at the relevant time, when the petitioner some how induced the informant and established forceful physical relationship. The informant is still ready to reside with the petitioner as wife, provided the petitioner keeps her with dignity and honour.

Considering the rival submissions of the parties, it appears that on the joint prayer of the party vide order dated 09.03.2017, the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority. The report of the Mediator at Flag 'A' dated 18.04.2017 reflects that the issue could not be resolved through the process of mediation, but thereafter several attempts were made by this Court to get the issue resolved.

In view of the fact that though the petitioner and informant have been leading married life for a considerable period, but it appears that the issue is not likely to be resolved,



at present, the counsel for the petitioner submits that in alternative the petitioner is ready to make payment of Rs.3,500/- per month from September, 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 and undertakes to submit her bank account number on affidavit before the learned Court below within a period of three weeks.

Considering the present stand of the parties, in view of the fact that the investigation is still pending and also in order to save the informant 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 Additional Chief Judicial Magistrate-XI, Darbhanga in connection with Baheri P.S. Case No. 133 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will have no



bearing on the claim and counter claim of the parties with regard to the issue of performance of marriage, but the said payment will be subject to any order passed in matrimonial, maintenance, domestic violence case or any other 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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