

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44504 of 2016

Arising Out of PS.Case No. -1020 Year- 2013 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Mukesh Kumar, Son of Late Mahesh Praqsad Gupta, Resident of
vuillage- Chaundi, P.S.- Barh, District- Patna

.... Petitioner/s

Versus

1. State of Bihar
2. Shilpi Gupta, Wife of Mukesh Kumar, D/o Kamata Pd. Gupta resident
of village- Chaundi, P.S. - Barh, District- Patna at Present Pachhahati, P.S.-
Bodh Gaya, district- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. J.S. Arora, Sr. Advocate
Mr. Arjun Pd. Keshri, Advocate
For the Opposite Party/s : Dr. Ajeet Kumar, APP
For the Complainant : Mr. Abhishek Prasad, Advocate

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

8 04-08-2017 Heard learned Sr. counsel for the petitioner and the
counsels for complainant and the State.

The petitioner, being the husband of the
complainant, is apprehending arrest in a complaint case wherein
processes were directed to be issued after cognizance being taken
for the offences punishable under Section 498A of the IPC and
Section 4 of Dowry Prohibition Act.

The petitioner and the complainant are present in
person.

The prosecution case got initiated with filing of
Complaint Case No. 1020 of 2013, alleging therein that the



marriage of the complainant with the petitioner was performed on 27.6.2010 and subsequent to the marriage, the complainant gave birth to a male child on 16.7.2011 at her parent's house but the petitioner did not come over to celebrate the birth of the child. The parents of the complainant tried to get the issue reconciled but there was further demand of dowry of rupees two lacs and ornaments. The complainant went to matrimonial house on 2.6.2013 but she was not allowed to enter into the matrimonial house till the fulfillment of dowry demand. Consequently, the complaint was filed on 7.6.2013.

Learned Senior Counsel for the petitioner submits that the petitioner admits his marriage with the complainant and birth of a male child. The petitioner made all efforts to keep the complainant and the child but due to her apathetic attitude, the issue could not be reconciled. The petitioner has old maternal grand mother (Nani), who is dependent on the petitioner but the complainant is not ready to reside with her. In the circumstances, at present, the reconciliation does not appear to be feasible.

Learned counsel for the complainant submits that the complainant is ready to reside with the petitioner provided he keep her separately.

Having heard learned counsels for the parties, it



appears that on submission of learned Senior counsel for the petitioner that the petitioner is ready to keep the complainant as wife with full dignity and honour and statement to that effect being made in paragraph 6 of the petition and on the offer being accepted by the learned counsel for the complainant, this Court, vide order dated 19.10.2016, adjourned the matter to 21st November, 2016, allowing the petitioner and the complainant to appear in person and directed in the meantime not to take coercive steps against the petitioner.

Thereafter, on appearance of the petitioner and the complainant and on the petitioner, being ready to take the complainant to her matrimonial house from the Court itself, the petitioner was granted provisional anticipatory bail for three months since the complainant accepted the offer of the petitioner. The matter was adjourned to 10th March, 2017. Thereafter, it appears that the issue could not be reconciled, hence, this court vide order dated 10.3.2017, on joint prayer of the parties, referred the matter to the Mediation and Conciliation Centre of the State Legal Services Authority. The report of the Mediator dated 13.4.2017, at Flag – G, reflects that the issue could not be reconciled through the process of mediation. Thereafter, once again, on the joint prayer of the parties, this court vide order dated



16.5.2017 referred the matter to the Mediation and Reconciliation Centre of Bihar State Legal Services Authority. The report of Mediator dated 30.6.2017 at Flag – H reflects that again the issue could not be reconciled through the process of mediation. Hence, it does not appear feasible that the issue can be reconciled between the parties at present.

However, learned Senior Counsel for the petitioner submits that the petitioner is ready to make payment of Rs.3500/- to the complainant from September, 2017, by depositing the same in the bank account of the complainant by second week of every succeeding month. Learned counsel for the complainant submits that the complainant is reluctantly ready to accept the offer and undertakes to submit her bank account number on affidavit before the learned Court below within a period of two weeks. In the circumstances, at present, learned counsel for the complainant is not opposing the prayer of the petitioner for anticipatory bail.

Considering the present stand of the parties, in order to save the complainant and her minor child from destitution and vagrancy with a lurking hope that the issue may reconcile in future between the parties, let the petitioner above named be released on bail in the event of arrest or surrender within a period of twelve weeks on furnishing bail bond of Rs.10000/- (ten thousand) with



two sureties of the like amount each to the satisfaction of learned SDJM, Gaya in connection with Complaint Case No. 1020 of 2013, subject to the conditions as laid down in Section 438(2) of the Cr.P.C.

The above mentioned payment will be subject to any order passed in the matrimonial, maintenance or collateral proceeding.

Three consecutive defaults in making payment will give liberty to the complainant to file an application for cancellation of bail bonds of the petitioner, before the learned Court below.

The present order, in no way, will preclude the parties to reconcile the issue otherwise.

(Dinesh Kumar Singh, J)

Anil/-

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