

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21661 of 2016

Arising Out of PS.Case No. -33 Year- 2016 Thana -MARKAHI District- KHAGARIA

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Krishnanand Singh Son of Late Bindeshwari Singh resident of village -
Bachhauta, Police Sttation Morkahi, District - Khagaria

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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With

Criminal Miscellaneous No.35911 of 2016

Arising Out of PS.Case No. -33 Year- 2016 Thana -MARKAHI District- KHAGARIA

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Nitesh Kumar Singh, Son of Krishnanand Singh, resident of village –
Bachhauta, Police Station – Morkahi, District – Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar
2. Dr. Manjulika, Wife of Dr. Nitesh Kumar and Daughter of Late Madan Kishore Plandey, resident of Indraprastha Colony, Near NH-28, Mazaulia, Khabra, P.S. – Sadar, Districtr – Muzaffarpur.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.21661 of 2016)

For the Petitioner/s : Mr. Ravi Shanker Pankaj

For the Opposite Party/s : Mr. Md. Nazir Ansari(App)

(In Cr.Misc. No.35911 of 2016)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

12/ 27-03-2017 Heard learned counsels for the petitioners,

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

State.

Petitioner Nitesh Kumar Singh of Cr. Misc. No.



35911 of 2016 being the husband of the informant and petitioner Krishnanand Singh of Cr. Misc. No. 21661 of 2016 being the father of the husband of the informant are apprehending their arrest in a registered for the offences punishable under Sections 341, 323, 307, 498A, 494 of the Indian Penal Code and 3/4 of Dowry Prohibition Act.

Prosecution case as per the written report, submitted by the informant-opposite party no. 2 before the Officer-in-Charge, Morkahi Police Station, is to the effect that the informant got married with petitioner Nitesh Kumar Singh on 22.04.2015 and came to matrimonial house but after few days of the marriage the husband and the parents-in-law started inflicting torture for non-fulfillment of further dowry demand. On 20.03.2016 the mother and the sister of the informant came to the in-laws house of the informant when the informant explained to them about torture being inflicted for non-fulfillment of dowry demand whereupon the mother of the informant requested the parents-in-law of the informant to resolve the issue. In protest, father-in-law Krishnanand Singh, mother-in-law Rita Devi, sister-in-law Neelu Devi and brother-in-law (brother-in-law of the husband of the informant) Subhash Kumar Singh started abusing and driving out the mother and



sister of the informant from the house. Thereafter, the informant forbad parents-in-law to mishandle her mother and sister but in retaliation all the accused persons assaulted her mother, sister and her with iron rod, fists and kick as a result the informant got unconscious. Thereafter, the father-in-law, Krishnanand Singh tried to throttle the informant when the sister of the informant saved her. On alarm being raised the neighbours came and tried to pacify the issue, but the mother and sister of the informant were driven out from the house. The informant was brought to Sadar Hospital, Khagaria by her mother and sister and other villagers. The informant heard rumour that her husband performed second marriage. On the basis of the accusation Morkahi P.S. Case No. 33 of 2016 was registered on 20.03.2016 under Sections 341, 323, 307, 498A, 494 IPC and 3/4 of Dowry Prohibition Act.

It is submitted by learned counsel for the petitioners that the husband Nitesh Kumar Singh admits his marriage with the informant having no issue. Admittedly after the marriage issue was raised since the parents of the informant made frivolous allegation. The petitioner Nitesh Kumar Singh was not present on the date of occurrence i.e. 20.03.2016 as he was being treated as outdoor patient at AIIMS, New Delhi on



19.03.2016 with complain of abdominal pain, vomiting and fever due to food poisoning. The informant herself did not make any effort to reconcile the issue rather she transmitted SMS to the petitioner demanding Rs.15,00,000/- as one time settlement amount. The petitioner Nitesh Kumar Singh has done his medical course from a University of China but he has failed to pass the required examination under M.C.I. guidelines to get appropriate job in medical field or practice, hence, he is still unemployed. The accusation is not being corroborated by medical opinion.

It is submitted on behalf of petitioner Krishnanand Singh that though the FIR reflects that he tried to strangle the informant by pressing her neck but during investigation no injury report of the informant was collected by the I.O. The medical reports submitted on behalf of informant before the learned court below neither corroborate the accusation nor they are authentic. The petitioner Krishnanand Singh filed two petitions before the police prior to lodging of the present case levelling accusation against the informant which have been brought on record.

Learned counsel for the informant submits that immediately after the marriage she was being physically and



mentally tortured for non-fulfillment of further dowry demand. When the mother and sister of the informant came to informant's in laws house they were abused and assaulted. The father-in-law tried to throttle her by pressing her neck and the accusation is being corroborated by the medical opinion. The informant is still ready to resume the conjugal life but the husband of the informant is not making any endeavour to pass required examination under M.C.I. guidelines to become eligible to practice in India since he has medical degree from a University of China.

On the joint prayer of the parties vide order dated 13.02.2017 passed in Cr. Misc. No. 21661 of 2016 the matter was referred to Mediation and Conciliation Centre of the State Legal Services Authority, but the mediation failed since the petitioner Nitesh Kumar Singh was not ready to keep; the informant, though initially undertaking was given to the effect that he is ready to resume the conjugal life which gets reflected from order dated 22.08.2016 passed in Cr. Misc. No. 35911 of 2016.

Mr. J.N. Thakur learned counsel for State after going through the case diary submits that though there is omnibus and general accusation of assault against the parents-



in-law, sister-in-law and brother-in-law but specific accusation of throttling the informant is against father-in-law, Krishnanand Singh. The I.O. during investigation has not collected any medical report of the informant but the medical reports have been submitted by the informant during hearing of the bail application before the learned Sessions Judge.

It is further submitted by learned counsel for the petitioner Nitesh Kumar Singh that he is ready to make payment of Rs.4,500/- per month to the informant from May, 2017 by depositing the same in the bank account of the informant by second week of every succeeding month.

However, counsel for the informant submits that the informant is not ready to accept the offer of monthly payment by her husband rather she only wants to reconcile the issue in terms of resuming the conjugal life.

Considering the rival submissions of the parties, it appears that the issue is not likely to reconcile, at present. The matters are pending before this Court since last several months. The matter was referred to Mediation and Conciliation Centre of State Legal Services Authority but the report of the Mediator dated 07.03.2017 at Flag 'A' reflects that the issue could not be reconciled through the process of mediation. Admittedly the



date of occurrence is 20.03.2016. The medical report of Khagaria Hospital dated 20.03.2016 produced before this Court suggests that the victim was examined by the doctor with the complain of assault, who suggested for brain CT Scan and referred to the higher centre but the said medical report does not suggest any injury. The other medical report of Dr. Satyendra Kumar Choudhary dated 22.03.2016 reflects neck pain, swelling, bodyache, vomiting and abdominal pain. It also suggests multiple abrasions over the neck, redness over neck and cheeks and referred the victim to Sadar Hospital, Muzaffarpur. The CT Scan dated 05.04.2016 reflects soft tissue swelling seen over the parietal region of scalp. The specific case of the informant in the FIR is that after the assault she got unconscious and thereafter, she was being treated at Sadar Hospital, Khagaria. The medical report dated 20.03.2016 claims to be of Sadar Hospital, Khagaria, does not suggest any injury or complain of unconsciousness. The other medical report of Dr. Satyendra Kumar Choudhary suggests medical examination of the informant after two days of the occurrence i.e. 22.03.2016 which only suggests superficial injuries and the CT Scan dated 05.04.2016 also suggests soft tissue swelling over the parietal region of scalp. Let all the reports be kept on record.



The petitioner will deposit the undertaken amount of Rs.4,500/- from May, 2017 before the learned court below which will be subject to result of the case. At any point of time if the informant files application for the release of the said amount, the said amount will be released by the learned court below in favour of the informant. In case of default in depositing the aforementioned undertaken amount the informant will be at liberty to file application for cancellation of bail of the petitioner Nitesh Kumar Singh.

Considering the nature of accusation, delayed bringing on record the injury report dated 20.03.2016 by informant, the same not corroborating the manner of assault, admitted position that the husband was not present on the alleged date of occurrence and in order to save the informant from destitution and vagrancy, with a lurking hope that the issue may reconcile in future, let both the above named petitioners be released on anticipatory bail in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Khagaria in connection with Morkahi P.S. Case No. 33 of 2016,



subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J.)

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