

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16443 of 2016

Arising Out of PS.Case No. -520 Year- 2015 Thana -SIKARPUR District-
WESTCHAMPARAN(BETTIAH)

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Md. Wasim Son of Late Md. Haroon R/O Village- Bhathauna, P.S.-
Shikarpur, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Gulayasa Praveen D/O- Nesar Ahmad R/O- Bhedihari, P.S.-
Purushottampur, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Nand Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

9 09-02-2017 Heard learned counsels for the petitioner, informant and
the State.

The petitioner being the husband of the informant is
apprehending arrest in a case registered for the offences
punishable under Sections 341, 323, 307, 498A, 420, 504, 506,
120B of the Indian Penal Code and 3/4 of the Dowry Prohibition
Act.

Basic accusation is of torture for non-fulfillment of
dowry demand. The informant claims that she was ravished by the
petitioner and thereafter on 06.02.2015 the petitioner gave in
writing the undertaking that he will perform marriage with the



informant on 08.02.2015. Consequently, Nikah was performed on 08.02.2015, but thereafter the demand of rupees five lakhs and Car were made and on non-fulfillment of the same torture was inflicted. As a result, the informant lodged Shikarpur P.S. Case No.520/2015 on 22.12.2015 with accusation under sections 341, 323,307, 498A, 420, 504, 506, 120B of the Indian Penal Code and 3/4 of the Dowry Prohibition Act. The undertaking of the petitioner is the part of the First Information Report.

It is submitted on behalf of the petitioner that the petitioner denies the factum of marriage. The petitioner filed Complaint Case No.126C/2015 on 14.01.2015 levelling accusation under section 506/34 of the Indian Penal Code, but the same was subsequently dismissed since the issue was reconciled. The petitioner claims to have pronounced 'Talak' on 01.07.2015. Moreover, the petitioner also filed Matrimonial Suit No.280/2015 on 18.08.2015 for confirmation of 'Talak'. Hence, both the complaint case and the matrimonial suit were filed before filing of the present FIR. In the circumstances, the petitioner is not ready to keep the informant as wife. However, in alternative the petitioner is ready to make payment of Rs.5000/- (rupees five thousand) per month to the informant from March, 2017 by depositing the same in the bank account of the informant by second week of every



succeeding month.

Learned counsel for the informant submits that the petitioner initially ravished the informant and thereafter gave undertaking to perform marriage. Subsequently, marriage was performed on 08.02.2015 and thereafter torture was inflicted for non-fulfillment of further dowry demand of rupees five lakhs and a Car. The stand of the petitioner is inconsistent as at the one hand he claims that no marriage was performed while on the other hand he claims to have pronounced 'Talak' and matrimonial suit was filed for confirmation of the 'Talak'. The informant is not ready to take the monthly payment, but she is willing for settling the issue on payment of one time settlement amount of Rs.10,00,000/- (Rupees Ten lakhs only).

This Court vide order dated 28.07.2016, on joint prayer of the parties, referred the matter to the Mediation Centre of Bihar State Legal Services Authority. The report of the Mediator dated 29.09.2016, kept at 'Flag-A' reflects that the issue could not reconcile through the process of mediation due to non-cooperation of opposite party no.2. The report of the Mediator reads as under :-

"Earlier on all the three dates petitioner was present along with his learned counsel. Opposite party no.2 did not appear on last two dates though her learned counsel is present today.

In absence of the opposite party no.2 this mediation proceeding has failed."



The matter is pending before this Court since 13.04.2016 when initially notices were issued to opposite party no.2 and thereafter the matter was adjourned on several occasions, but it appears that the issue is not likely to be reconciled.

Considering the delayed lodging of the present FIR and filing of the complaint and matrimonial suit by the petitioner at earlier point of time 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 arrest or surrender before the learned Court below within a period of 12 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 the learned Chief Judicial Magistrate, Bettiah, West Champaran, in connection with Shikarpur P.S. Case No.520/2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The petitioner will deposit the aforesaid amount before the learned Court below which will be subject to result of the case. The present order will not preclude the informant to withdraw the aforesaid monthly amount deposited by the petitioner before the learned Court below. If the informant files any such application then the learned Court below will release such amount in favour of the informant.



The aforesaid payment will be subject to any order being passed in matrimonial or maintenance proceeding.

Three consecutive defaults in making payment by the petitioner will give liberty to the informant to file an application for cancellation of bail of the petitioner.

The present order will not preclude the parties to reconcile the issues otherwise.

(Dinesh Kumar Singh, J)

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