

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19201 of 2016

Arising Out of PS.Case No. -654 Year- 2014 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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Bechan Sharma Son of Late Bholan Sharma, resident of village- Madhuban,
P.s.- Jankinagar, District- Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. Yasoda Devi wife of Bechan Sharma, resident of Madhuban, P.S.-
Jankinagar, District- Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 02-03-2017 Heard learned counsels for the petitioner and the State.

However, none is appearing on behalf of complainant opposite
party no.2.

The petitioner being the husband of the complainant is
apprehending arrest in a complaint case wherein process has been
directed to be issued after cognizance being taken for the offences
punishable under Section 498A of the Indian Penal Code, though,
there is accusation of performing second marriage also, but
cognizance has not been taken under section 494 of the Indian
Penal Code.

Prosecution case is that the complainant got married
with the petitioner about 30 years prior to the lodging of the



present case and gave birth of two female children. About 25 years prior to lodging of the present case the petitioner performed second marriage since there was no male child from the complainant, but subsequently the torture was inflicted.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of two female children. The daughters are now married.

Notices were issued to the complainant opposite party no.2 vide order dated 02.05.2016. The office note dated 26.08.2016 reflects that the ordinary process of notice has been received by learned counsel appearing on behalf of opposite party no.2 before the learned Court below, but the service report of registered cover of notice has not been received. Thereafter, vide order dated 24.10.2016 fresh notices were issued to opposite party no.2 on the present and correct address. The office note dated 11.01.2017 reflects that ordinary process of notice has again been served on the counsel for opposite party no.2 appearing before the learned Court below. However, the service report of the registered cover of notice was not received. Hence vide order dated 10.02.2017, the notices issued to opposite party no.2 was treated a deemed valid service.

The matter is pending before this Court since



02.05.2016 when initial notices were issued to the complainant-opposite party no.2, but till date none appears on behalf of opposite party no.2.

It is further submitted by learned counsel for the petitioner that the petitioner is ready to make payment of Rs. 2000/- (rupees two thousand) per month to the complainant from April, 2017, either by depositing the same before the learned Court below or in the bank account of the complainant, if bank account is supplied by the complainant, by second week of every succeeding month.

Considering the nature of accusation and the present stand of the petitioner in order to save the complainant 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 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 Judicial Magistrate, 1st Class, Purnea, in connection with Complaint Case No.654/2014, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The abovementioned payment will be deposited by



second week of every succeeding month before the learned Court below and the same will be subject to result of the case. However, if the complainant files an application for release of such amount then the learned Court below will release such amount on month-to-month basis. It is expected from the learned Court below to also release the accumulated amount to the complainant on submission of bank account number, on affidavit, before the learned Court below, the petitioner will be obliged to deposit such amount in the bank account of the complainant.

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

Three consecutive defaults in making payment by the petitioner will give liberty to the complainant 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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