

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24333 of 2016

Arising Out of PS.Case No. -16 Year- 2015 Thana -RAUTA District- PURNIA

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Md. Shah Alam Son of late Nizam Resident of Vilage- Kathora PS Rauta,
District Purnia.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gajlu Begum W/o Md.. Sah Alam , D/o Md. Shakir, Resident of village
– Domohni, P.S. Rauta, Disrict – Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh

For the Opposite Party/s : Mr. Yogendra Kr. Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

09/ 21-03-2017

Heard learned counsels for the petitioner,
informant-opposite party no. 2 and Mr. Yogendra Kumar Singh
for the State.

The petitioner and the informant are present in
the Court.

The petitioner being the husband of the
informant is apprehending his arrest in a case registered for the
offences punishable under Sections 323, 376, 379, 498A, 307,
506/34 of the Indian Penal Code and 3/4 of Dowry Prohibition
Act.

The basic accusation is of torture for non-
fulfillment of the dowry demand.



It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant and birth of a child. Initially it was submitted on behalf of the petitioner that the petitioner is ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in paragraph 12 of the petition which reads as follows:-

“That the petitioner is still ready to keep the informant with him with full dignity if the informant behaves sober manner.”

The informant initially got filed Complaint Case No. 988 of 2015 988 of 2015 which was ultimately got registered as a police case after complaint being transferred under Section 156(3) of the Cr.P.C. to Rauta Police Station. It is alleged that on 1st of January, 2014 at 8.00 P.M. the petitioner ravished the informant and thereafter assured to marry with her. Subsequently, the petitioner called the informant and insisted her to flee away from the house as his family members are not ready for marriage. On 10.01.2014 the petitioner and the informant after taking the cash and jewellery from her house flee away from Purnea to Katihar and from there to Mumbai. Subsequently they stayed at Mumbai in the house of Jabadul



Haque, brother-in-law of the petitioner. The informant claims that the petitioner established continuous physical relation with her on the assurance of marriage and thereafter he brought her to Dehradun where he performed marriage with her as per muslim rituals. Subsequently one month after the marriage the petitioner brought her to native village but on return the family members of the petitioner started inflicting torture and ultimately on 30.03.2015 the petitioner and his family members assaulted the informant and driven out from the matrimonial house leading to filing of the present case.

A joint affidavit has been filed to the effect both sides have decided to part ways on payment of permanent alimony. The informant-opposite party no. 2 accepts the Talaque dated 30.03.2015 given by the petitioner. The petitioner has given Rs.2,50,000/- to the informant, in presence of her counsel Mr. N. Hasan, as full and final alimony amount which includes the Denmohar amount. Both have also agreed to file withdrawal/compromise petition in the present case being Rauta P.S. Case No. 16 of 2015 pending before learned Chief Judicial Magistrate, Purnea and Maintenance Case No. 213 of 2015 pending before learned Principal Judge, Family Court, Purnea. Statements to that effect have been made in paragraph



nos. 4 and 5 of the joint affidavit which read as under:-

*“4. That after arrival of common friends and relatives both the parties have settled their dispute outside the court and ready to live independently. The O.P. No. 2 has accepted the Talak dated 30.03.2015. Today on 21.03.2016 the petitioner gave Rs.2,50 lac cash to the O.P. No. 2 in the presence of her counsel namely Mr. N. Hasan as full and final alimony including the Denmohar amount.
5. That now there is no claim present between both the parties to each other and the O.P. No. 2 will file a compromise/withdrawal application before the learned court below in connection with Rauta P.S. Case No. 16 of 2015 and Maintenance Case No. 213 of 2015 pending before Principal Judge, Family Court, Purnea.”*

Though, in the joint affidavit there is no specification about the custody of the child but it is jointly submitted that the child will remain in custody of the mother, the informant.

Counsel for the informant Mr. N. Hasan having AOR No. 04545 does not controvert the averments made in the joint affidavit filed today and is not opposing the prayer for anticipatory bail of the petitioner rather submits that the informant has received alimony amount of Rs.2,50,000/-.

In the circumstances, 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 Chief Judicial Magistrate, Prunea in connection with Rauta P.S. Case No. 16 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J.)

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