

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36182 of 2016

Arising Out of PS.Case No. -2967 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

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Amit Sharma Son of Sri Vivek Sharma, Resident of M/S Mahadev Lal
Kanhialal Main Road Jharia, P.S Jharia, District- Dhanbad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Babita Sharma, W/o Amit Sharma, D/o Prahalad Sharma, at present
resident of SBI Colony, Daiyapur, P.S Pirbohar, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gouranga Chatterjee, Advocate

For the Opposite Party/s : Mr. N.K. Agrawal, Sr. Advocate

Mr. Sanjeet Kumar, Advocate

Mr. Brajendra Nath Pandey, APP

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

ORAL ORDER

06/ 14-02-2017

Heard learned counsels for the petitioner, State

and the complainant-opposite party no.2.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Sections 498A of the Indian Penal Code and 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 complainant having no issue.

On the joint prayer of the parties vide order dated 22.08.2016 the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority. The interim report of the Mediator dated 21.11.2016 at Flag 'X' reflects that the issue could not be concluded.

However, it is submitted by learned counsel for the petitioner that the issue has been resolved outside the court between the parties. The petitioner and the complainant decided to part ways on payment of one time settlement amount of Rs.15,00,000/- and all the payments have to be made through bank draft. Supplementary affidavit has been filed to that effect. Out of Rs.15,00,000/-, Rs.3,75,000/- has to be paid at the time of filing of the matrimonial suit under Section 13B of the Hindu Marriage Act. The supplementary affidavit does not stipulate the period of filing of the matrimonial suit and the court where it will be filed. However, it is jointly submitted that the said matrimonial suit will be filed within a period of four weeks before the Principal Judge, Family Court, Patna. Thereafter, rest amount will be paid in three installments of Rs.3,75,000/- each with four months' interval from each payment. The petitioner is



also ready to withdraw the Title (Matrimonial) Suit No. 329 of 2015 pending in the court of learned Principal Judge, Family Court, Dhanbad and also ready to withdraw C.P. Case No. 1189 of 2015 pending in the court of learned ACJM, Dhanbad filed with accusation under Sections 417/34 of the IPC against opposite party no. 2. The petitioner is also ready to co-operate for early closure of C.P. Case No. 1189 of 2015. The petitioner seeks assurance from the complainant for the withdrawal/closure of the Complaint Case No. 2967(C) of 2015 pending in the court of learned SDJM, Patna (present case), the Revision Case No. 236 of 2016 pending in the court of learned District & Sessions Judge, Patna and Maintenance Case No. 468 of 2015 pending in the court of learned Principal Judge, Family Court, Patna.

Counsel for the complainant submits that the complainant will file appropriate application for withdrawal/closure of all the pending cases filed by the complainant within a period of four weeks of filing of the matrimonial suit. On the conditions as stipulated above, the counsel for the complainant is not opposing the prayer for anticipatory bail of the petitioner.

In view of the fact that the issue has been



resolved between the parties, 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 Sub-divisional Judicial Magistrate, Patna in connection with Complaint Case No. 2967(C) of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is expected from the counsel for the petitioner to file a copy of the supplementary affidavit filed today before this Court before all the courts where the proceedings are pending as well as before the learned Principal Judge, Family Court, Patna where the matrimonial suit will be filed.

Either party will be at liberty to file appropriate application if either party fails to comply the undertaking given before this Court.

(Dinesh Kumar Singh, J.)

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