

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34229 of 2016

Arising Out of PS.Case No. -226 Year- 2016 Thana -MAHILA P.S. District- BHOJPUR

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Ashutosh Kumar Ray Son of Late Basgit Rai Resident of Village- Dumaria
(Sah Jauli Dera), P.O.- Bharauli, P.S. Sahpur, District- Bhojpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gaurav Govind

For the Opposite Party/s : Mr. Smt. Reena Sinha

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 28-04-2017

Heard learned counsels for the petitioner,

informant and the State.

The petitioner and the informant are present in
the Court.

The petitioner being husband of the informant
is apprehending his arrest in a case registered for the offences
under Sections 341, 323, 504, 498A, 494/34 of the Indian Penal
Code.

The basic accusation is of torture and
performing second marriage.

It is submitted by learned counsel for the
petitioner that petitioner admits his marriage with the informant
having no issue. The petitioner has filed Matrimonial Suit No. 135
of 2013 with a prayer for divorce and thereafter the present case



has been lodged. The petitioner has not performed second marriage. A statement to that effect has been made in para 11 of the petition which reads as follows:-

“That the allegation of performing second marriage is also false and hereby denied.”

It is further submitted that petitioner is ready to keep the informant as wife with dignity and honour and to withdraw Matrimonial Suit, though statement to that effect has not been made in the petition. It is also submitted that it is the informant who does not want to reside with the petitioner. The petitioner is making payment of Rs. 2000/- per month to the informant as interim maintenance in pursuance to the order dated 25.05.2015 passed by learned Principal Judge, Family Court, Bhojpur at Ara in Matrimonial Suit No. 135 of 2013. The petitioner has also paid lump sum amount of Rs. 5000/- to the informant as litigation cost.

Though the petitioner has not paid payment of interim maintenance of Rs. 2000/- for the last two months but he undertakes to make regular payment including the arrears.

It is submitted by learned counsel for the informant that informant is ready to resume the conjugal life, but it is the petitioner who deserted the informant and performed second



marriage.

Considering the rival submissions of the parties, since the matter is pending before this Court since 11.08.2016 and several adjournments were granted to get the issue reconciled, it does not appear that the issue is likely to be reconciled at present.

In such circumstances, keeping in view of the fact that petitioner undertakes to make payment of maintenance amount including the arrears as directed by the Principal Judge, Family Court, Bhojpur at Arrah which will at least save the informant at present from restitution and vagrancy with a lurking hope that the issue may be reconciled in future, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on anticipatory bail 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, Bhojpur at Ara in connection with Mahila P.S. Case No. 226 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bonds of the petitioner will be accepted on filing proof with regard to up-to-date payment of the interim maintenance amount including the arrears in pursuance to



the order dated 25.05.2015 passed by learned Principal Judge, Family Court, Bhojpur at Ara in Matrimonial Case No. 135 of 2013.

Learned Court below will be at liberty to cancel the bail bonds of the petitioner, if the petitioner defaults for two consecutive occasions in making payment of the maintenance amount.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

It is expected from the learned Court below to conclude the trial within a period of eight months.

The bail bonds of the petitioner will also be cancelled by learned Court below if petitioner will make three consecutive defaults during trial.

(Dinesh Kumar Singh, J)

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