

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35251 of 2016

Arising Out of PS.Case No. -653 Year- 2015 Thana -SARAN COMPLAINT CASE District-
SARAN

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Md. Asgar ali @ Asgar ali S/o Md. Badshah Mansuri resident of Village -
Rampur Pandey Tola, P.S.- Bhagwanpur, District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. Jarina Khatoon wife of Asgar Ali D/o Habibullah resident of Village -
Rampur Pandey Tola, P.S.- Bhagwanpur, District- Siwan At Present
Residing at Village- Baniyapur, P.S.- Baniyapur, District-Saran at
Chapra

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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

ORAL ORDER

08/ 13-02-2017

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 323 and 498A of the Indian Penal Code.

The basic accusation is of torture. It is also
alleged that the petitioner performed second marriage with one
Shahina Begum, though, the cognizance has not been taken
under Section 494 of the Indian Penal Code.



It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and is ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph no. 11 of the petition, which reads as follows:-

“That the petitioner is still ready to keep the complainant with full dignity and regard as wife.”

It is further submitted that the petitioner has not performed second marriage but no statement to that effect has been made in the petition.

It is submitted by learned counsel for the complainant that as per the information of the complainant the petitioner has performed second marriage.

On the joint prayer of the parties the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority vide order dated 17.08.2016, but the interim report of the Mediator at Flag ‘X’ dated 03.10.2016 reflects that the mediation could not conclude and prayer was made for extension of the time of mediation but it is jointly submitted that the issue is not likely to be resolved, hence the period of mediation may not be extended.

Since the complainant is not ready to reside with



the petitioner as the petitioner has performed second marriage, moreover, the effort was made to get the issue resolved on payment of one time settlement amount but the same also failed due to the dispute with regard to the quantum of one time settlement amount. In the circumstances, the issue is not likely to reconcile at present.

Considering the inconsistent stand of the parties, let the learned court below consider the prayer for bail of the petitioner, if the petitioner surrenders before the learned court below within a period of six weeks from today in connection with Complaint Case No. 653 of 2015 pending in the court of learned SDJM, Saran at Chapra.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J.)

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