

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47397 of 2016

Arising Out of PS.Case No. -1246 Year- 2012 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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Ashraf Ali Son of Ejajul Ansari R/o Village- Punaura Tole Ajij Nagar, P.S.-
Sitamarhi, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shakila Khatoon wife of Ashraf Ali, D/o Late Jumrati Ansari R/o
Village- Bhoraha, P.S.- Riga, District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

For the Opposite Party/s : Mr. J.N. Thakur, APP

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

04/ 24-03-2017

Though the mater has been listed under hearing

‘For Orders (On Office Notes)’ awaiting the report of the
Mediation but since the report of Mediation is already on
record, hence, with the consent of both parties the mater is
being taken up for hearing.

Heard learned counsels for the petitioner,
complainant-opposite party no. 2 and Mr. J.N. Thakur for the
State.

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



Section 498A of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage his marriage with the complainant and birth of two children. It is further submitted that the complaint was filed in the year 2012 wherein the cognizance was taken on 29.11.2012 but the requisites for issuance of notice was submitted by the complainant on 16.05.2016, thereafter, process was issued. The petitioner is ready to maintain the complainant, statement to that effect has been made in paragraph 15 of the petition which reads as follows:-

“That the petitioner is ready to maintain the Opposite Party No. 2.”

It is further submitted that though the cognizance has not been taken under Section 494 of the IPC but petitioner admits that he has performed second marriage.

On the joint prayer of the parties vide order dated 09.02.2017 the matter was referred to the Mediation and Conciliation Centre of the State Legal Services Authority. The report of the Mediator dated 24.03.2017 at Flag ‘B’ reflects that the issue has been resolved between the parties since both sides



have decided to part ways on payment of Rs.2,00,000/- by the petitioner to the complainant-opposite party no. 2 through bank draft within a period of six months and Rs.1,00,000/- to the daughter namely Muskan six months thereafter. Though, the time of payment of Rs.1,00,000/- to the daughter has not been incorporated in terms of agreement but it is jointly submitted that it was agreed that the same will be deposited in the account of the daughter of the complainant-opposite party no. 2 within a period of six months after payment of Rs.2,00,000/- to the complainant. Both sides agree to file appropriate compromise petition in all the pending cases filed by either party.

Counsel for the complainant does not controvert the contention of the learned counsel for the petitioner incorporated in the terms of agreement and in the circumstances, the learned counsel for the complainant is not opposing the prayer for anticipatory bail.

Considering the present stand of 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, Sadar, Sitamarhi in connection with Complaint Case No. 1246 of 2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The petitioner undertakes to supply a copy of this order to the complainant within a period of three weeks from today when it is expected that the complainant will supply bank account number by filing the same on affidavit before the learned court below.

Let this order be transmitted to the learned court below along with the report of the Mediator including terms of agreement.

Either party will be at liberty to file appropriate application before this Court in case of breach of terms of agreement arrived at during mediation.

(Dinesh Kumar Singh, J.)

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