

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41864 of 2016

Arising Out of PS.Case No. -269 Year- 2016 Thana -MAHILA P.S. District- BHOJPUR

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Santosh Kumar @ Budhi Jee S/o Late Ashok Prasad, R/o Village- Mirganj
(Naya S.B.I Bank Wali Gali), P.S.- Ara Town, District- Bhojpur

.... Petitioner

Versus

State of Bihar & Anr

.... Opposite Party/s

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with

Criminal Miscellaneous No.54902 of 2016

Arising Out of PS.Case No. -269 Year- 2016 Thana -MAHILA P.S. District- BHOJPUR

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Jitendra Kumar, S/o Late Ashok Prasad, R/o Village- Mirganj (Naya S.B.I
Bank Wali Gali), P.S.- Ara Town, District- Bhojpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.41864 of 2016)

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Opposite Party/s : Mr. Sri Anil Prasad Singh

(In Cr.Misc. No.54902 of 2016)

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Opposite Party/s : Mr. Sri Ahtash Ali Khan

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 16-05-2017 Heard learned counsels for the petitioners, opposite
party no.2 and the State.

The petitioner Santosh Kumar @ Budhi Jee being the
husband of the informant and petitioner Jitendra Kumar being the
brother of petitioner Santosh Kumar @ Budhi Jee are
apprehending arrest in a case registered for the offences



punishable under Sections 341, 323, 498A, 506, 354A/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand. It is alleged by the informant that the petitioner Santosh Kumar has illicit relationship with the younger sister of the first wife, who died earlier. It is alleged against the petitioner Jitendra Kumar that he tried to outrage the modesty of the informant.

It is submitted by the learned counsel for the petitioners that the petitioner Santosh Kumar admits his marriage with the informant after death of his first wife but the dispute arose since the informant was not ready to keep the son of the first wife, thereafter, petitioner Santosh Kumar filed Matrimonial Suit No. 323 of 2014 before the learned Principal Judge, Family Court, Bhojpur at Ara on 18.09.2014 with a prayer for divorce and thereafter on issuance of notice in the matrimonial suit, the present FIR was registered on 11.07.2016. Moreover, on conclusion of investigation, the charge under Sections 354A/34 of the IPC has not been found true.

It is further submitted on behalf of petitioner Santosh Kumar that he is so disgusted with the conduct of the informant that he is not ready to keep her.



On a joint prayer of the parties, the matter was referred vide order dated 04.02.2017, to the Mediation & Reconciliation Centre of Bihar State Legal Services Authority. The report of the mediator dated 28.03.2017, at flag-‘A’ reflects that issue could not be reconciled through the process of mediation.

It is submitted by learned counsel for the informant that the informant is ready to resume the conjugal life on any terms and conditions.

However, it is submitted on behalf of petitioner Santosh Kumar that he is ready to pay ₹3,000/- per month to the informant from July, 2017 by depositing the same in the bank account of the informant by second week of every succeeding month.

It is submitted by learned counsel for the informant that the informant is reluctantly ready to accept the offer of petitioner Santosh Kumar and in the circumstances, she is not opposing the prayer for bail of the petitioner. She further undertakes to submit her bank account number to the petitioner within a period of three weeks by filing the same on affidavit before the learned court below.

Considering the present stand of the parties in order to save the informant from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the above named



petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned SDJM, Bhojpur, Ara in connection with Mahila P.S. Case No. 269 of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid payment will be subject to any order being passed in matrimonial, maintenance or any other collateral proceeding.

Three consecutive defaults in making payment by the petitioner Santosh Kumar will give liberty to the informant to file an application for cancellation of bail of the petitioner Santosh Kumar.

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

(Dinesh Kumar Singh, J)

Amrendra/-

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