

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35045 of 2016

Arising Out of PS.Case No. -341 Year- 2011 Thana -DARBHANGA COMPLAINT CASE District-
DARBHANGA

=====

Dhirendra Paswan s/o Kari Paswan resident of Village- Paswan, P.S.-
Mahasi, Distt.- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Reeta Devi W/o Binod Paswan resident of P... Bhira, P.S- Jale Dist-
Dharbhanga, Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Sri Bharat Lal

=====

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

05/ 21-03-2017

Heard learned counsels for the petitioner and

Mr. Bharat Lal for the State. None appears on behalf of
opposite party no. 2, complainant.

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 with the
complainant having no issue. The complainant filed



Maintenance Case No. 04 of 2012 before learned Principal Judge, Family Court, Darbhanga wherein she has filed compromise petition to the effect that she has accepted one time settlement amount and she does not want to pursue the maintenance case. The compromise petition has been brought on record as Annexure-3. Subsequently, vide order dated 29.10.2013 the maintenance case was dismissed for non-prosecution as after filing of the compromise petition on 01.11.2012 the complainant never appeared. The said order has been brought on record as Annexure-5. It is further submitted by learned counsel for the petitioner that on stamp paper the complainant divorced the petitioner and married with one Binod Paswan on 04.02.2013 as a result in the voter list of Ghoghapur Panchayat the name of the complainant appears at serial no. 2 wherein the name of the husband of the complainant has been recorded as Binod Paswan.

Counsel for the State submits that in spite of valid service of notice the complainant chose not to appear.

Having heard the learned counsel for the petitioner and the State it appears that the notices were initially issued to the complainant vide order dated 17.08.2016. The office note dated 29.11.2016 reflects that the ordinary process



of notice was served to the lawyer of opposite party no. 2 appearing on her behalf but the registered notices were returned unserved. Under the circumstances, fresh notices were issued to opposite party no. 2 vide order dated 01.12.2016. The office note dated 13.02.2017 reflects that the ordinary process of notice was received by the mother of opposite party no. 2, but registered cover of notices returned undelivered with no report. On submission of learned counsel for the petitioner that opposite party no. 2 has performed second marriage with one Binod Paswan and is residing with her, moreover, in the complaint petition the complainant has given two addresses; one is of Darbhanga and the other is of Saharsa, initially, the notices were transmitted at Darbhanga address and thereafter on Saharsa address, but deliberately the complainant is not receiving the notices, hence, the notices issued to opposite party no. 2 was treated deemed valid service vide order of this Court dated 14.02.2017.

None appears for the complainant even today to controvert the contention of the petitioner. In view of the order of learned Principal Judge, Family Court, Darbhanga dated 29.10.2013 passed in Maintenance Case No. 04 of 2012 that on filing of the compromise petition the maintenance case was



dismissed, 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 SDJM, Biraul, Benipur, Darbhanga in connection with Complaint Case No. 341 of 2011, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J.)

DKS/

U		T	
---	--	---	--

