

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41732 of 2016

Arising Out of PS.Case No. -415 Year- 2015 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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Santosh Kumar Kushwaha Son of Shri Bhagwan Prasad Resident of Village
Mishra Gram PS Sangrampur District East Champaran, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shahnaz Khatoon @Sheela Devi Daughter of Shahabudeen Miyan
Resident of Village Mishra Gram PS Sangrampur District East
Champaran, Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar

For the Opposite Party/s : Mr. Md. Arif

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

06/ 27-02-2017

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 498A, 323 and 504 of the Indian Penal Code.

The prosecution case is that initially the
complainant got married with Md. Nezamuddin as per Muslim



rituals on 14.04.1999 but somehow or other the matrimonial harmony could not develop as a result her husband gave Talaq on 25.12.2005. Thereafter the petitioner developed intimacy with complainant and performed court marriage on 02.06.2014. Thereafter the marriage was also performed in the temple on 30.05.2014 and subsequent to the marriage female child was born but now, the petitioner has deserted the complainant.

It is submitted by learned counsel for the petitioner that the marriage was registered by playing fraud. The petitioner has filed matrimonial suit, though, in 2017 for declaring the marriage null and void. It is further submitted that the complainant has not been divorced by her first husband.

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 23.09.2016. The report of the Mediator dated 21.11.2016 at Flag 'A' reflects that the issue could not reconcile during the process of mediation.

Counsel for the complainant submits that the court marriage was performed and it was registered, thereafter the marriage was performed in a temple as per Hindu rituals but, in the meantime, the complainant got conceived and a female child was born and during pendency of the present case



the petitioner has performed second marriage.

In view of the conflicting submissions of the parties, it does not appear that the issue may reconcile at present. However, the petitioner is ready to make payment of Rs.2,000/- per month from April, 2017 to the complainant by depositing the same in her account by second week of every succeeding month.

Counsel for the complainant submits that the complainant is ready to resume the conjugal life but, reluctantly, she is ready to accept the present offer of the petitioner and undertakes to submit bank account number on affidavit before the learned court below within a period of three weeks.

Considering the stand of the parties, in order to save the complainant and minor child from destitution and vagrancy, with a lurking hope that the issue may reconcile in future, 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 Judicial Magistrate, Ist Class, Motihari, East



Champan in connection with Complaint Case No. C-415 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J.)

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