

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39740 of 2016

Arising Out of PS.Case No. -118 Year- 2016 Thana -KALYANPUR District-
EASTCHAMPARAN(MOTIHARI)

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Mohan Singh, son of late Girijanandan Singh, resident of village- Tulsipatti,
P.S.-Kalyanpur, District – East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Jyoti Singh @ Chanda, wife of Mohan Singh, daughter of Nandlal Singh, resident of village- Chhatauni (Awadhpur), P.S.-Tariyani, District- Sheohar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr. Sri S. Ehteshamuddin, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 06-04-2017 Heard learned counsel for the petitioner, informant
and the State.

The petitioner being the husband of the informant is apprehending his arrest in case registered for the offences punishable under sections 341, 342, 323, 498A, 354/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

Basic accusation is of torture for non-fulfillment of dowry demand. It is also alleged that the in-laws family including the brothers, brother's wife, husband of the informant used to assault and torture her.

Learned counsel for the petitioner submits that the petitioner being a retired Armed Force personnel, after death of his first wife performed second marriage with the informant opposite



party no.2. There is no issue to the informant as the petitioner got sterilized earlier. The father and brother of the informant concealed the marital status of the informant with the petitioner as she was earlier married with one Raj Babu Singh on 10.07.2000. Moreover, without getting the earlier marriage dissolved the informant got married with the petitioner. It is further submitted that the informant got married with Raj Babu Singh claiming herself Chanda Devi but she performed marriage with the petitioner by claiming herself Jyoti Singh. The informant has also filed Maintenance Case No.03/2005, before the learned Principal Judge, Family Court, Sitamarhi on 10.06.2010 against her first husband and she is getting maintenance amount of Rs.3000/- per month. As soon as, the petitioner came to know about the earlier marriage of the informant with Raj Babu Singh, he filed Matrimonial Suit No. 700/2013 before the Family Court, Sriganga Nagar, Rajasthan, which was disposed of vide order dated 14.05.2015 since the Court held that it has no territorial jurisdiction to entertain the aforesaid matrimonial suit, hence, directed the petitioner to prefer such matrimonial suit within the territorial jurisdiction of Bihar. Accordingly, the petitioner filed Matrimonial Case No. 234 of 2015 before the Principal Judge, Family Court, Motihari, East Champaran for declaring the



marriage of the petitioner with Opposite Party No.2 null and void, which is still pending.

It is submitted by learned counsel for the informant that the informant had informed about her first marriage to the petitioner and his family members prior to getting married with the petitioner, but after the petitioner got retired on 15th January, 2015, the torture was inflicted on the informant. The informant is still residing in the native house of the petitioner in the village-Tulsipatti, P.S-Kalyanpur, District- East Champaran and she is ready to resume the conjugal life.

Learned counsel for the petitioner further submits that since the marriage is still subsisting till it is declared null and void by the competent Court, the petitioner is ready to make payment of Rs. 2000/- per month to the informant from May, 2017 by depositing the same in the bank account of the informant by second week of every succeeding month. The petitioner further undertakes that he will not disturb the possession of the informant in the house situated in the native village of the petitioner.

The counsel for the informant submits that the informant is ready to accept the offer of the petitioner and undertakes to submit her bank account number on affidavit before the learned court below within a period of three weeks. Hence, she



is not opposing the prayer for bail of the petitioner.

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 petitioner 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 Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-IX, East Champaran at Motihari, in connection with Kalyanpur P.S. Case No. 118/2016, 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 or maintenance proceeding.

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

The present order will not preclude the parties to reconcile the issues otherwise.

(Dinesh Kumar Singh, J)

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