

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1774 of 2016

Arising Out of PS.Case No. -1105 Year- 2012 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

=====

1. Deepak Kumar Diwson @ Deepak Kumar Diwsan Son of Dayanand Jha
resident of village and Post Office - Haripur, Police Station - Alauli, Via -
Sakarpura, Distt - Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Priyamvada Wife of Deepak Kumar Diwson @ Deepak Kumar Diwsan,
Daughter of Gajendra Nath Jha Resident of Village - Panchgachhiya
(Navtol), Police Station - Bihra, District - Saharsa.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Pravin Kumar Sinha

For the Opposite Party/s : Mr. Narendra Kr.Singh(App)

=====

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

ORAL ORDER

15 11-07-2017 Heard learned counsels for the petitioner,

complainant and the State.

The petitioner being the army personnel and husband
of the complainant is apprehending arrest in a complaint case
wherein processes were directed to be issued after cognizance
being taken under Sections 498A and 323/34 of the Indian
Penal Code.

The basic accusation is of torture and making assault.

It is submitted that the petitioner admits his marriage
with the complainant, being performed on 15.7.2005, but after
some time the relationship between the petitioner and the



complainant got strained. On 14.6.2006, the petitioner and his father escorted the complainant to her parents' house but dropped her at a place before Barauni, from where she reached her parent's house on her own. Thereafter, efforts were made to reconcile the issue, but the petitioner used to threaten the complainant. With such accusations, Complaint Case No. 1105C of 2012 was filed by the complainant O.P. No. 2 wherein, after examining the complainant on solemn affirmation and recording the statement of enquiry witnesses, process was directed to be issued after cognizance being taken under sections 498A and 323/34 of the IPC. There is no issue out of the wedlock. In pursuance to the complainant's complain, the competent authority of the petitioner in the Army Headquarter ordered for deduction of 22% of the salary of the petitioner, to be paid to the complainant with effect from 5.1.2010.

Initially, the petitioner filed H.M.A. No.39A of 2012, for restitution of conjugal rights, before the District Judge, Sagar, Madhya Pradesh, where the petitioner was posted at the relevant time. In the said proceeding, the complainant appeared and declined to resume the conjugal life. The complainant is now employed as a teacher and she is not ready to leave her job



as the complainant is apprehensive that if she will be deserted again, she may not get any job though the petitioner is ready to take the complainant to his place of posting to keep her as wife, with dignity, provided she leaves her job.

Learned counsel for the complainant submits that the complainant was ready to resume the conjugal life but the manner in which she was being treated by the petitioner in last few years, she is not in a position to rely on the promise of the petitioner. Hence, she is not inclined to resume the conjugal life.

The matter is pending before this Court since last more than a year, allowing the parties to resolve the issue. Today, a joint affidavit dated 11.7.2017 has been filed suggesting that the complainant and the petitioner have decided to part ways in terms of payment of one time settlement amount of Rupees Eight Lacs by the petitioner to the complainant and get the marriage dissolved with mutual consent by filing a matrimonial suit under section 13(2) of the Hindu Marriage Act before the Principal Judge, Family Court, Saharsa. It is submitted that the payment of one time settlement amount will be made, preferably within a period of one year though such stipulation is not there in the joint affidavit. It is



further clarified that the complainant will get 22% of salary of the petitioner as maintenance till the entire payment of one time settlement amount is made or till the dissolution of marriage, whichever is earlier. Statement to that effect has been made in paragraph 3 of the joint affidavit. It is further submitted by learned counsel for the parties that the complainant and the petitioner will transmit a copy of the joint affidavit before the competent controlling officer of the petitioner along with a forwarding by the complainant. The complainant will further intimate the Controlling officer of the petitioner immediately after receiving one time settlement amount that she is not entitled to receive any maintenance amount, i.e., 22% of the salary of the petitioner in pursuance to the agreement arrived at between the parties.

On payment of the said amount, O.P. No. 2 will file appropriate application before the learned Court below stating the present stand of the parties. The concerned court is expected to conclude the said proceeding in accordance with law. If such Matrimonial Suit is filed under Section 13(2) of Hindu Marriage Act, it is expected from the concerned court to conclude the proceeding expeditiously in accordance with law.

In view of the agreement arrived at between the



parties, learned counsel for the complainant is not opposing the prayer of the petitioner for anticipatory bail.

Considering the aforesaid facts and submissions, 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 six 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 J.M., Saharsa in connection with Complaint Case No. 1105 C of 2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Anil/-

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

