

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40910 of 2016

Arising Out of PS.Case No. -79 Year- 2015 Thana -PIPRA District-
EASTCHAMPARAN(MOTIHARI)

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1. Shyam Shanker Mishra S/o Late Raghuwanshi Mishra
2. Maida Devi W/o Shyam Shanker Mishra
3. Raj Kishore Mishra S/o Shyam Shanker Mishra
4. Prem Kishore Mishra S/o Shyam Shankar Mishra
5. Rinku Mishra W/o Prem Kumar Mishra @ Prem Kishore Mishra All R/o
village - Mahmatpur, P.S. Vaishali, District Vaishali

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Advocate
For the Opposite Party/s : Mr. Uma Shankar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 17-02-2017 Heard learned senior counsel for the petitioners,

informant and the State.

The petitioners being parents, brothers and brother's wife of the husband of the informant are apprehending arrest in a case registered for the offences punishable under Sections 498A, 313, 307 and 406 of the Indian Penal Code.

Basic accusation is of torture and making attempt to cause burn injury to the informant. It is also alleged by the informant in the FIR that she was married with Sudhir Kumar Mishra on 13.07.2013, but thereafter further dowry demand was made and after marriage Rs.50000/- was given to the accused



persons, but the further dowry demand of rupees two lakhs was made and consequently the accused persons used to torture for non-fulfillment of dower demand. Due to the torture inflicted by the accused persons, the pregnancy of the informant got terminated. It is specifically alleged that on 15.03.2015, the accused persons tried to cause burn injuries to the informant when non-petitioner Pushpa Devi brought kerosene oil and gave to petitioner no.3 Raj Kishore Mishra, who gave it to his brother-in-law Dipu Mishra a non-petitioner, who poured the kerosene oil on the informant and thereafter mother-in-law Maidaa Devi (petitioner no.2) brought match box and gave it to non-petitioner Sudhir Kumar Mishra for lighting the fire, but on alarm being raised, the accused persons could not lit the fire.

It appears that this Court vide order dated 20.09.2016, on joint prayer of the parties, referred the matter to the Mediation and Conciliation Centre of Bihar State Legal Services Authority, but the report of the Mediator dated 02.12.2016, kept at 'Flag-M' reflects that the issue could not reconcile through the process of mediation.

It is submitted by learned senior counsel for the petitioner that there is no specific accusation about the demand of dowry or torture. No date or any medical document has been



brought on record to suggest that the pregnancy of the informant got terminated. As per own admission of the informant, in the FIR, no injury was actually caused to her for the last incident dated 15.03.2015 and thereafter, as per FIR, the informant was ultimately driven out from the matrimonial house, but the complaint was filed on 19.03.2015 which came to register as police case on 09.04.2015. The husband of the informant has filed Matrimonial Suit No.62 of 2016 on 01.03.2016 with a prayer for divorce, though subsequent to registration of the present First Information Report. Moreover, the thrust of accusation is against the husband of the informant Sudhir Kumar Mishra, who has already been arrested. The petitioners are ready to allow the informant to enjoy her share of property in the matrimonial house.

Learned counsel for the informant submits that the informant is still ready to resume the conjugal life and so far as the torture for non-fulfillment of dowry demand and assault are concerned the petitioners also participated in the whole incident.

Considering the fact that the thrust of accusation is against the husband of the informant admittedly no burn injury was caused to the informant, no document is on record to suggest that actually the pregnancy of the informant got terminated and in



view of the stand of the petitioners that they will allow the informant to enjoy her share of property in the matrimonial house, 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 CJM, Motihari, East Champaran, in connection with Pipra P.S. Case No.79 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The bail bonds of the petitioners will be accepted by the learned court below on filing of separate affidavit by each petitioner to the effect that he/she will allow the informant to enjoy her share of property in matrimonial house. It is expected from the learned Court below to get the said affidavits transmitted to the SHO of concerned police station.

(Dinesh Kumar Singh, J)

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