

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35828 of 2016

Arising Out of PS.Case No. -79 Year- 2015 Thana -KHAGARIA COMPALINT CASE District-
KHAGARIA

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Achchal Sharma @ Achal Kumar son of sri Rajesh Sharma resident of
Village-Morar P.S. Morkahi District- Khagaria

.... Petitioner/s

Versus

1. The State of Bihar
2. Khusbu Kumari wife of Achchal Sharma @ Achal Kumar Daughter of
Hareram Tanti resident of village-Hariharpur P.S. Allali District-
Khagaria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subesh Sharma

For the Opposite Party/s : Mr. Sri Asharaf Ansari

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

05/ 30-03-2017

Heard learned counsel for the petitioner,

complainant-opposite party no.2 and the State. .

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 of the Indian Penal Code and 4 of the Dowry Prohibition Act.

The petitioner and complainant are present in the Court.

The basic accusation is of torture for non-



fulfillment of the dowry demand.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant having no issue and still ready to keep the complainant as wife with full dignity and honour. Statement to that effect has been made in paragraph 7 of the petition which reads as follows:-

“That the petitioner is always ready to keep the complainant with full dignity and the complainant is also willing to live with the petitioner.”

A supplementary affidavit has been filed making statement in paragraph no. 2 that the petitioner has not performed second marriage, which reads as follows:-

“That the petitioner has not solemnized marriage again till today after first marriage.”

Learned counsel for the complainant submits that the complainant has definite information that the petitioner has performed second marriage, hence, she is not ready to accept the offer of the petitioner of resuming conjugal life.

It appears from the record that on the joint prayer of the parties this Court vide order dated 26.09.2016 referred the matter to the Mediation and Conciliation Centre of



the State Legal Services Authority. The report of the Mediator dated 13.12.2016 at Flag 'B' reflects that the issue could not be resolved through the process of mediation since the complainant-opposite party no. 2 failed to appear.

However, it is submitted by learned counsel for the petitioner that, as an alternative, the petitioner is ready to make payment of Rs.2,000/- per month from May, 2017 to the complainant by depositing the same in her bank account by second week of every succeeding month.

Counsel for the complainant submits that the complainant is ready to accept the offer of monthly payment and undertakes to submit the bank account number on affidavit before the learned court below within a period of three weeks. In the circumstances, the counsel for the complainant is not opposing the prayer for anticipatory bail of the petitioner, at present.

Considering the present stand of the parties in order to save the complainant 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 Sub-divisional Judicial Magistrate, Khagaria in connection with Complaint Case No. 79C 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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