

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39609 of 2016

Arising Out of PS.Case No. -97 Year- 2016 Thana -DHAKA District-
EASTCHAMPARAN(MOTIHARI)

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1. Mumtaz Ansari son of Israfil Ansari Resident of Village-Pipra Wazid
P.S.- Dhaka District-East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Ajmeri Khatoon wife of Mumtaz Ansari Resident of Village-Pipra
Wazid P.S.- Dhaka District-East Champaran at present resident of village-
Naya Tola Jhitkahin P.S.-Dhaka District-East Champaran

.... Opposite Party

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Appearance :

For the Petitioner/s : Md. Anis Akhtar, Adv.
For the State : Mr. Uma Shankar Pd. Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 17-02-2017 Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 109, 323, 379, 406, 498A and 494 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand and performing second marriage.

Notices were issued to opposite party no.2 vide order dated 14.09.2016. The office note dated 14.12.2016 reflects that opposite party no.2 after receiving notices, refused to acknowledge the receipt. In the circumstances, notices issued to



opposite party no.2 has been treated as deemed valid service vide order dated 15.12.2016. Even today, none appears on behalf of opposite party no.2.

It is submitted by the learned counsel for the petitioner that the petitioner admits his marriage with the informant on 03rd March, 2008 having no issue but when no child was born then with the consent of the informant, he performed second marriage with one Chunni four years prior to the filing of the present case. Even thereafter, the informant is to reside with the petitioner but when second wife gave birth to a male child, thereafter the informant started claiming torture. The petitioner is still ready to keep the informant with full dignity and honour, statement to that effect has been made in para 11 of the petition which reads as follows:-

“That it is relevant to mention here that petitioner is still willing to keep his wife with full dignity and honour and for which he is regularly persuading the complainant/informant i.e. opposite party no.2 here.”

Considering the fact that second marriage is permission under Mohammedan Law, informant chose not to appear in spite of valid service of notice and the present stand of the petitioner as



gets reflected from the statement made in paragraph no.11 of the petition that he is ready to keep the informant with full dignity and honour, 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 twelve weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Sikrahna at Dhaka, East Champaran in connection with Dhaka P.S. Case No. 97 of 2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The grant of bail to the petitioner will not preclude the informant to resume the conjugal life and if she files any such application before the learned court below then the petitioner will be under obligation to comply the undertaking given before this Court.

(Dinesh Kumar Singh, J)

Amrendra/-

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