

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16563 of 2016

Arising Out of PS.Case No. -86 Year- 2015 Thana -SAHIYARA District- SITAMARHI

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Jai Prakash Chaudhary Son of late Bindeshwar Chaudhary Resident of
Village- Kuama, PS Pipradhi, District Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Rinku Kumari Daughter of Munnilal Chaudhary, Wife of Jai Prakash Chaudhary Resident of Village- Kuama, PS Pipradhi, District Sheohar. At present R/o Vill- Sehiyara, P.s Sahiyara, District Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the informant-O.P. No. 2 : Mr. Harsh Singh, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

10/ 28-02-2017

None appears for the petitioner.

Heard Mr. Harsh Singh learned counsel for the informant-opposite party no. 2 and Mr. J.N. Thakur, learned counsel for the State.

The petitioner being the husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 323, 498A, 379, 494 and 504/34 of the Indian Penal Code.

The basic accusation is of torture and performing second marriage.

Initially, learned counsel for the petitioner submitted that the petitioner admits his marriage with the



informant and has not performed second marriage, statement to that effect has been made in paragraph no. 8 of the petition. The relevant portion of which reads as follows:-

“That it is wrong to say that the petitioner has entered into second marriage with one Sima Kumari.”

It was further submitted that the petitioner is ready to keep the informant with dignity and honour. Statement to that effect has been made in paragraph no. 7 of the petition, which reads as follows:-

“That the petitioner is unfortunate husband of the informant and always ready to keep his wife (informant) with full honour dignity and comfort.”

On the basis of the aforesaid submissions vide order dated 19.04.2016 notices were issued to the informant-opposite party no. 2. Subsequently vide order dated 02.08.2016 the petitioner was granted provisional anticipatory bail for three months on the joint prayer of the parties that both will appear before the learned court below on 12.08.2016 when the petitioner will take the informant to keep her as wife with full dignity and honour. During the period of provisional bail the learned ACJM, Sitamarhi was directed to get a report from the Officer-in-charge, Sahiyara Police Station with regard to the



petitioner relationship with alleged Sima Kumari and transmit the report to this Court.

It appears that on the joint prayer of the parties the matter was referred to the Mediation and Conciliation Centre of the Bihar State Legal Services Authority vide order dated 08.12.2016. The report of the Mediatory dated 07.02.2017 at Flag 'C' reflects that the issue was reconciled on following terms, which reads as under:-

- “1. That the petitioner is ready to live with her wife and children with full dignity and honour.*
- 2. That the opposite party No. 2 is also ready to live with her husband in Matrimonial house with all respect to family member of her husband.*
- 3. That the opposite party No. 2 is ready to go with her Matrimonial house today with her husband.*
- 4. That both are agreed upon to open joint account in the name of Jai Prakash Choudhary, Rinku Kumari within fifteen days and withdraw the required amount for fulfilling all the necessity of herself, children and for husband. Minimum Rs.1500/- (Rupees one thousand and five hundred) shall be deposited by the petitioner in the joint account in every*



month.”

5. That the petitioner and the opposite party No. 2 withdraw all the cases pending in the Court below within four month today if the petitioner will keep her wife with full dignity.

6. That the statement made in this agreement has been read over and explained to me in Hindi which I fully understood.”

It is submitted by learned counsel for the informant that in pursuance to the issue being reconciled during mediation the informant resumed the conjugal life when she found the presence of other lady in petitioner's house. On 12.02.2017 the petitioner brutally assaulted opposite party no. 2 causing dislocation of right shoulder of the informant. Photostat copy of the x-ray along with medical prescription have been brought on record as Annexure-B. The statement of the informant was recorded by the police on 12.02.2017 but no case was registered and thereafter the informant came back to her parents' house.

It appears from the record that on 08.11.2016 none appeared on behalf of the petitioner. Thereafter on 15.11.2016 the matter was adjourned on the prayer made on



behalf of the petitioner. On 19.11.2016 and 16.02.2017 again none appeared on behalf of the petitioner. Today also none is appearing on behalf of the petitioner.

Considering the facts on record and the submissions made by the learned counsel for the informant, it appears that the petitioner has not only misused the privilege of provisional bail but has also failed to comply the terms of agreement reached during mediation and above all gave a false undertaking before this Court of keeping the informant as wife with full dignity and honour, hence, the prayer for anticipatory bail is rejected.

Since the period of provisional bail has already lapsed on 01.11.2016 it is expected from the learned Additional Chief Judicial Magistrate, Sitamarhi to take all coercive steps for appearance of the petitioner and conclude the trial of Sahiyara P.S. Case No. 86 of 2015 expeditiously.

(Dinesh Kumar Singh, J.)

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