

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28124 of 2016

Arising Out of PS.Case No. -185 Year- 2013 Thana -KATIHAR COMPLAINT CASE District-
KATIHAR

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Mahesh Chaudhary son of Late Yugal Chaudhary resident of village-
Rakha Tola Bisanpur, P.S. - Mansahi, District Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Gauri Devi wife of Mahesh Chaudhary , daughter of Late Laximi
Narayan Chaudhary resident of village- Kanta Kosh, P.S. - Manihari ,
District- Katihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar

For the Opposite Party/s : Mr. Smt. Renuka Ratnakar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

05/ 06-02-2017

Heard learned counsels for the petitioner 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 3/4 of Dowry
Prohibition Act.

The basic accusation is of torture for non-
fulfillment of the dowry demand.

It is submitted by learned counsel for the



petitioner that, though, the complaint was filed in 2013, but order of cognizance has been passed on 09.11.2015. The petitioner admits his marriage with the complainant, but on the ground of illicit relationship of the complainant with one Bablu Chaudhary the petitioner filed Matrimonial Suit No. 452 of 2012 with a prayer for dissolution of marriage on 15.09.2012 and thereafter the present complaint was filed on 29.01.2013.

On the basis of above submissions notices were issued to opposite party no.2 vide order dated 11.07.2016 but it appears from the office note dated 09.01.2017 that ordinary process of notice was received by the counsel for the complainant appearing before the learned court below. However, service report of the registered cover of notice was not received. In the circumstances, notices issued to opposite party no. 2 deemed to be validly served.

Till date none has appeared on behalf of the opposite party no. 2.

By way of filing supplementary affidavit the compromise petition as well as deposition of the complainant in Matrimonial Suit No. 111 of 2013 have been brought on record. The order of learned Additional Principal Judge, Family Court, Katihar dated 05.12.2016 passed in Matrimonial Suit No. 111 of



2013 reflects that the compromise petition was filed on 28.11.2016 which reflects that both sides decided to part ways and the complainant does not want to proceed with the case. Statements to that effect have been made in paragraph nos. 1 to 3 of the compromise petition, which read as follow:-

*“That at the intervention of common friends and well-wishers the case has been compromised between the parties.
That in token of compromise both the parties have ready to live separately from each other.
That as a result of compromise both the parties do not want to proceed with the case.”*

The above contention of the complainant gets apparent from her evidence recorded in Matrimonial Suit No. 111 of 2013 on 05.12.2016 where she has stated that she does not want to proceed with the matrimonial suit and both decided to live separately.

In view of the filing of the matrimonial suit at earlier point of time, non-appearance of the complainant in spite of service of ordinary process of notice through her lawyer appearing before the learned court below and her stand to live separately in matrimonial suit, 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, Katihar in connection with C.A. No. 185 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J.)

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