

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27534 of 2016

Arising Out of PS.Case No. -842 Year- 2015 Thana -COMPLAINT CASE District- SUPAUL

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1. Md. Amir @ Md. Rafique son of Domi Miyan @ Noor Mohammad,
resident of village- Karnpur, Police Station and District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gulshan Khatoon wife of Md. Amir @ Md. Rafique resident of village-
Karnpur, Police Station and District- Supaul.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Goutam

For the Opposite Party/s : Mr. Uma Shankar Pd. Singh

Mr. Ranjeet Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 18-07-2017 Heard learned counsel for the petitioner,

complainant and the State.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under sections 341,323,504,379 and 498A/34 of the IPC.

The petitioner and the complainant are present in person.

The prosecution case got initiated with the filing of Complaint Case No. 842 C of 2015, in the Court of the learned CJM, Supaul. The complainant claims to have married



the petitioner, ten years prior to the filing of the complaint. For four years she led a happy married life at the matrimonial house, but, thereafter, dowry demand of Rupees Fifty Thousand was made. The father and brother of the complainant showed their inability to pay the said amount, then, the petitioner performed second marriage and, thereafter, the complainant was tortured, assaulted and starved by the accused persons. It is also alleged that on 12.7.2015, the accused persons assaulted the complainant and drove her out from the matrimonial house. On examination of the complainant on solemn affirmation and the statement of enquiry witnesses, processes were directed to be issued after cognizance being taken.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the complainant and is ready to keep her with full dignity and honour, though specific statement to that effect has not been made in the petition.

It is further submitted that since no child was born out of the wedlock with the complainant, hence, the petitioner performed second marriage with Firoza Khatoon and after the second marriage, the complainant remained in the matrimonial house for several years, which gets reflected from the averments made in the complaint petition that the second



marriage was performed five years prior to the lodging of the complaint.

The learned counsel for the complainant submits that the complainant was assaulted and tortured by the petitioner and other in-laws family members, but she continued residing in the matrimonial house even after the petitioner performed second marriage but ultimately she was driven out of the matrimonial house on 12.7.2015, thereafter, she has been residing at her parent's house. Her father is now dead and she is spending her life with her widow mother with no financial capability to maintain. The complainant is not ready to accept the offer of the petitioner, as she is apprehensive of the past conduct of the petitioner. However, she is ready to accept the payment of monthly amount if the petitioner agrees for the same.

Learned counsel for the petitioner submits that at present, the petitioner is ready to make payment of Rs.2500/- from August, 2017, by depositing the same in the bank account of the complainant by second week of every succeeding month. Learned counsel for the complainant submits that the complainant is ready to accept the offer, however, she is not satisfied with the quantum of amount and undertakes to submit her bank account number on affidavit



before the learned Court below within a period of three weeks.

In the circumstances, at present, learned counsel for the petitioner is not opposing the prayer of the petitioner for anticipatory bail.

Considering the present stand of the parties, in order to save the complainant, from vagrancy and destitution with a lurking hope that the issue may reconcile in future, let the petitioner above named be released on bail in the event of arrest or surrender within a period of twelve weeks from today on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of SDJM, Supaul in connection with Complaint Case No. 842 C of 2015 subject to the conditions as laid down in Section 438(2) of the Cr.P.C.

The above mentioned payment will be subject to any order passed in the matrimonial, maintenance or collateral proceeding.

Three consecutive defaults in making payment will give liberty to the complainant to file an application for cancellation of bail of the petitioner.

The present order, in no way, will preclude the



parties to reconcile the issue otherwise.

(Dinesh Kumar Singh, J)

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