

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28044 of 2016

Arising Out of PS.Case No. -280 Year- 2014 Thana -FORBESGANJ District- ARRARIA

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Md. Quamruddin @ Quamraddin, Son of Abdul Quadir, Resident of village – Arraha Madarganj, Police Station – Forbesganj (Simraha), District – Araria.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Nafisa Khatoon wife of Md. Quamruddin, daughter of Md. Kamluddin, resident of village – Arraha Madarganj, Police Station – Simraha, District – Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anamul Haque

For the Opposite Party/s : Mr. Smt Renu Kumari

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

07/ 08-04-2017

Heard learned counsels for the petitioner, informant-opposite party no. 2 and Mr. J.N. Thakur 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, 341, 324, 498A/34 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 also alleged that the petitioner assaulted the informant when her cousin namely Bibi Nusrat Khatoon came to rescue, she was also assaulted with Farsa causing injury on her head.



It is submitted by learned counsel for the petitioner that the injuries of the informant and her sister have been found to be superficial simple in nature. The petitioner admits his marriage with the informant but the petitioner has given Talaq as per Mohammaden Law. The father of the petitioner filed Forbesganj P.S. Case No. 278 of 2014 against the near relatives of the informant.

A supplementary affidavit has been filed today stipulating therein that though the petitioner has pronounced Talaq to opposite party no. 2 but the same has not been accepted by her. Moreover, O.P. No. 2-informant is ready to live with the petitioner. Now the petitioner is ready to keep opposite party no. 2 as wife with full honour and dignity. Paragraph nos. 3 and 4 of the supplementary affidavit read as follow:-

“3.That admittedly the petitioner has divorced to opposite party no. 2 but the same has not been accepted by her and ready to live with the petitioner.

4. That on the basis of the above approach by the opposite party no. 2 the petitioner is ready to keep her with full dignity and quite peacefully.”

It is further submitted that, in alternative, the petitioner is ready to comply the order dated 11.12.2015 passed



by learned Principal Judge, Family Court, Araria in Maintenance Case No. 91 of 2014 whereby the petitioner was directed to make payment of Rs.2,000/- per month to opposite party no. 2 by 10th day of each succeeding month from the date of order i.e. 11.12.2015.

Learned counsel for the informant-opposite party no. 2 submits that the stand of the petitioner is absolutely inconsistent. Though the informant denies the factum of Talaq but through supplementary affidavit the petitioner has tried to emphasis that though he has given Talaq to the informant but now he is ready to keep her as wife which is not permissible under the Mohammeden Law. It is further submitted that the petitioner has performed second marriage. However, the informant-opposite party no. 2 is ready to accept the offer of receiving payment of maintenance amount in pursuance to the abovementioned order passed in maintenance case and undertakes to submit her bank account number on affidavit before the learned court below within a period of ten days.

Considering the rival submissions of the parties without giving any opinion with regard to the factum of Talaq in view of the present stand of the parties, 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, Araria in connection with Forbesganj (Simraha) P.S. Case No. 280 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bond of the petitioner will be accepted by the learned court below on filing proof with regard to the payment of the entire maintenance amount including arrears amount as directed under order dated 11.12.2015 passed in Matrimonial Case No. 91 of 2014.

(Dinesh Kumar Singh, J.)

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