

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20925 of 2017

Arising Out of PS. Case No.-14 Year-2017 Thana- SAHIYARA District- Sitamarhi

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Shashi Bhushan Kumar Son of Umakant Prasad, Resident of Village-
Sigrahia, P.O.- Vishunpur, P.S.- Sahiyara, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Madhuri Kumari, Wife of Shashi Bhushan Kumar, Presently Residing with
her father Deep Narayan Singh Resident of Village- Ramnagra, P.S.- Riga,
District- Sitamarhi.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashhar Mustafa
For the Opposite Party/s	:	Mr. SRI ANIL KUMAR, APP
For the Informant	:	Mr. Hanslal Kumar,

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 05-12-2017 Heard learned counsel for the parties.

The petitioner being the husband of the informant, is apprehending arrest in a case registered for the offences punishable under sections 323,307,379 and 498A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act.

The prosecution case got initiated with the filing of Complaint Case No. 37 of 2017 by Madhuri Kumari, O.P. No. 2 under sections 323,307,379 and 498A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act on 7.1.2017, which ultimately got registered as Sahiyara P.S. Case No. 14 of 2017 after complaint being transferred under section 156(3) of the Code of Criminal Procedure. The marriage of informant/ O.P.



No. 2 with the petitioner was performed on 20.5.2013. For some time the matrimonial harmony was cordial but in January, 2014, the in-laws started demanding Rupees Three Lacs to purchase a car and due to non-fulfillment of the same, torture was inflicted. Meanwhile, the O.P. No. 2 gave birth to a male child and ultimately on 2.12.2016, the informant was assaulted and was driven out from her matrimonial house, leading to filing of the complaint petition.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the informant and birth of a male child. After marriage, the informant went to Himachal Pradesh, the place of work of the petitioner. The relationship was cordial but after some time she returned to her parents house to pursue her studies and, thereafter, she never returned. It is the informant who deserted the petitioner, as a result the petitioner filed Matrimonial Suit No. 160 of 2016 for restitution of conjugal rights on 15.11.2016 and much after that, the present prosecution got initiated on filing of the complaint on 7.1.2017. It is further submitted that the petitioner is ready to keep the informant with dignity and honour. Statement to that effect has been made in paragraph 14 of the petition, which reads as follows:



“That even at the cost of repetition it is again reiterated that petitioner undertakes to keep O.P. No. 2 with all love and affection.”

Similar was the stand of the petitioner before the learned court below which gets reflected from the impugned order dated 29.3.2017 passed by the learned Sessions Judge, Sitamarhi in ABP NO. 308 of 2017. From the materials on record, it does not appear that any case under section 307 of the IPC is made out. No medical document has been brought on record to suggest that any injury has been caused or she has been treated by any doctor after the alleged assault on 2.12.2016. Prior to the last alleged occurrence of assault dated 2.12.2016, the petitioner filed Matrimonial Suit for restitution of conjugal rights on 15.11.2016 which demolishes the accusation levelled in the complaint.

During mediation also, the petitioner was ready to resume the conjugal life and for some time the complainant got ready but after that she, on one pretext or the other, declined to resume the conjugal life.

Learned counsel for the informant submits that initially the informant was ready to accept the offer of the petitioner of resuming the conjugal life but under certain apprehensions, she



is right now not inclined to accept the offer of the petitioner rather she requests for some monthly payment and in such circumstances, she is not opposing the prayer for bail.

Learned counsel for the petitioner, in response to the claim of the informant, submits that though the petitioner is still ready for resuming the conjugal life but however, in anticipation of the fact that the matter may reconcile in future, he is ready to make payment of Rs.2500/- per month from January, 2018 to the informant by depositing the same in bank account of the informant by second week of every succeeding month.

Learned counsel for the informant submits that the informant is ready to accept the offer of payment of the petitioner and undertakes to submit her bank account number before the learned court below within a period of three weeks.

Considering the rival submissions of the parties, in view of the fact that the marriage between the parties and birth of a male child are admitted, it appears that the petitioner's consistent stand that he is ready to resume the conjugal life, on joint prayer of the parties, matter was referred to the Mediation vide order dated 19.8.2017, the report of the Mediator dated 18.10.2017 at Flag A reflects that the mediation failed basically due to non-appearance of O.P. No. 2/ the informant, hence keeping in view



the present stand of the parties which, at least, for the present will save the informant and her minor child from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Sitamarhi in connection with Sahiyara P.S. Case No. 14 of 2017.

The aforesaid payment will be subject to any order being passed in matrimonial or maintenance or any collateral proceeding.

Three consecutive defaults in making payment by the petitioner will give liberty to the informant to file an application for cancellation of bail bonds 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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