

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43487 of 2016

Arising Out of PS.Case No. -160 Year- 2016 Thana -MAHILA P.S. District- BHOJPUR

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Pankaj Kumar Soni @ Pankaj Soni, aged about 36 years S/o Ashok Kumar Soni resident of Village- Satthyarganj, P.O.- Islampur, P.S.- Islampur, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Tripti Soni W/o Pankaj Kumar Soni, D/o Jeevan Priyadarshi resident of Village- Satthyarganj, P.O.- Islampur, P.S.- Islampur, District- Nalanda. at present Village- Jagdishpur, D.M. Road, P.O.+P.S.- Jagdishpur, Dist- Bhojpur (Arah).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Satyendra Kumar Srivastava

For the Opposite Party/s : Mr. Sri Panchanand Pandit

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

06/ 08-04-2017 Heard learned counsels for the petitioner and Mr. J.N. Thakur for the State. None appears for the informant-opposite party no. 2.

The petitioner being the husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 323, 379, 498A, 406/34 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 and making assault.

It was initially submitted by learned counsel for the petitioner that the petitioner admits his marriage with the



informant, but the petitioner filed Complaint Case No. 580C of 2012 with accusation under Sections 341, 323, 380/34 of the Indian Penal Code against the informant and others, moreover, the petitioner has also filed Matrimonial Suit No. 22 of 2014 on 07.01.2014 with a prayer for divorce and thereafter the present case has been registered and above all the petitioner is ready to resolve the issue, statement to that effect has been made in paragraph 7 of the petition which reads as follows:-

“That the petitioner is the husband of the informant/complainant (O.P. No. 2) in the case and he is ready to settle the dispute with the O.P. No. 2.”

On the basis of aforesaid submissions, vide order dated 05.10.2016 the notices were issued to informant-opposite party no. 2. The office note dated 20.01.2017 reflects that opposite party no. 2 entered appearance through her counsel but thereafter the orders dated 16.02.2017 and 28.03.2017 reflect that none appeared on behalf of opposite party no. 2. Today also none is appearing on behalf of opposite party no. 2.

It is submitted by learned counsel for the petitioner through supplementary affidavit that the petitioner has pleaded in paragraph no. 3 of the supplementary affidavit



that the petitioner has not performed second marriage.

Paragraph 3 of the supplementary affidavit reads as follows:-

“That till this date, the petitioner has not married any girl except the O.P. No. 2 and he has no other legally married wife except the Opposite Party No. 2.”

In paragraph 4 of the supplementary affidavit it has been stated that the petitioner is still ready to keep the informant-opposite party no. 2 as wife with full dignity and honour. Paragraph 4 of the supplementary affidavit reads as follows:-

“That the petitioner is always ready to keep the Opposite Party No. 2 as his legally wedded wife with love and affection, dignity and security but she is not ready to live with him as his legally wedded wife for the reason best known to her.”

It is further submitted by learned counsel for the petitioner that if the informant resumes the conjugal life then the petitioner is ready to withdraw the Matrimonial Suit No. 22 of 2014, though statement to that effect has not been either in the main petition or in the supplementary affidavit.

Considering the abovementioned submission of the petitioner and the fact that the informant chose not to appear to controvert the contention of the petitioner, 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, Bhojpur at Ara in connection with Mahila P.S. Case No. 160 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The present order, in no way, will preclude the informant to resume the conjugal life. If she files any such application before the learned court below then the learned court below will issue notice to the petitioner when he will comply the undertaking given before this Court.

(Dinesh Kumar Singh, J.)

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