

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49603 of 2015

Arising Out of PS.Case No. -27889 Year- 2014 Thana -PATNA COMPLAINT CASE District-
PATNA

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Sanjeet Tiwari @ Sanjeet Kumar Tiwari Son of Sharmanand Tiwari
Resident of Bichli Malahi, Barh, P.O. & P.S.-Barh, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Baby Kumari @ Baby Tiwary Wife of Sanjeet Kumar Tiwary, the
petitioner of above address and daughter of Ganesh Mishra Resident of
Village-Shivnar, P.S.-Mokama, District-Patna, at present residing in
Adarsh Colony (C/o Raju Dubey) Bibekanand Marg, Road No.-2, Patel
Nagar, District-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kunwar Narayan Jamuar

For the Opposite Party/s : Mr. J.N. Thakur (App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

13/ 10-03-2017

Heard learned counsels for the petitioner,
complainant-opposite party no. 2 and Mr. J.N. Thakur, learned
counsel for 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/34 of the Indian Penal Code.

The basic accusation is of torture.

The petitioner and the complainant are present



in the Court.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of two children. The petitioner is maintaining the children and providing education to them. The children are residing with the mother of the petitioner at Barh, Patna whereas the petitioner runs some business at Bhatinda, Punjab. The petitioner filed Matrimonial Suit No. 5524 of 2014 with a prayer for divorce on 26.06.2014 and thereafter the present complaint was filed on 04.07.2014.

It is submitted by learned counsel for the complainant that, initially, the petitioner was not allowing the complainant to meet the children but Yesterday both of them went there and the complainant was allowed to meet the children. Due to desertion and negligence the complainant has been pushed to destitution and vagrancy. Moreover, the petitioner has performed second marriage.

It is submitted by learned counsel for the petitioner that the petitioner has not performed second marriage. Statement to that effect has been made in paragraph 5 of the second supplementary affidavit filed on 04.10.2016, which reads as follows:-



“5.....that the petitioner has not married any other woman. This allegation, if any made in writing or orally is absolutely wrong and malafide.”

In the circumstances, it is submitted by learned counsel for the petitioner that, at present, it is not possible for the petitioner to keep the complainant, however, the petitioner is ready to make payment of Rs.5,000/- per month from March, 2017 to the complainant by depositing the same in her account by second week of every succeeding month. The petitioner further undertakes that he will give proper instruction to the school in question as well as her mother, who will allow the complainant to meet the children twice in a month.

Counsel for the complainant submits that though, reluctantly, the complainant is ready to accept the offer of the petitioner and submits that the bank account number has already been submitted on affidavit before the learned court below.

Considering the present stand of the parties, to save the complainant and the children from destitution and vagrancy with a lurking hope that the issue may reconcile in future, 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 Chief Judicial Magistrate, Patna in connection with Complaint Case No. 27889(C) of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file application for cancellation of bail of the petitioner. This liberty will also be available to the complainant if she is being prevented to meet the children and she brings substantive proof to that effect before the learned court below.

The present order, in no way, will preclude the parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J.)

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