

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4401 of 2017

Arising Out of Complaint Case No. -882 (C) Year- 2015 Thana -PATNA COMPLAINT CASE
District- PATNA

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Kunal Kumar Tiwari @ Kunal Kumar, Son of Kashinath Tiwari, Resident of Mohalla Town Mohalla Khajuriya Talab, Club Road Golnar College, near Sujata Cinema, P.S. Chutiya, District Ranchi (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Simple Sharma, wife of Kunal Kumar Tiwari @ Kunal Kumar, D/o Late Sukhdeo Sharma, Resident of Village- Auta Raghu Ram Tola, Charghar P.S. Hatidah, District Patna At present posted as Constable CISF at Civil Airport, P.S. Airport, Chandigarh (Punjab) Pin- 160003.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar, Advocate.
For the Opposite Party/s : Smt. Pronati Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 30-03-2017 Both husband and wife are present in Chambers along with their respective counsels.

Learned counsel for the State is also present.

Husband has offered that he is ready to take the wife with him at his place of posting at Delhi.

The wife is also working as Constable in CISF, Chandigarh. She has stated that at this stage it is difficult for her to live with the husband because she has been tortured since the time of marriage by the husband.

Both husband and wife during course of reconciliation have stated that now they are ready for one time



settlement and for this they are also ready to move a petition in the lower court for grant of divorce with mutual consent under Section 13-B of the Hindu Marriage Act.

Be that as it may, after talking with both husband and wife today, I am also of the view that, now, at this stage, there is no chance of both parties living together. Husband is working in Delhi Metro and it will be unnecessary harassment for both husband and wife to come to court and place their case.

Accordingly, this application is disposed off with direction to petitioner to surrender before the Court below i.e. Sub Divisional Judicial Magistrate, Barh (Distt- Patna), within a period of four weeks from today in connection with Complaint Case No. 882(C) of 2015 along with wife. In the event the Court below finds that petitioner is ready to keep the wife with full dignity and care but wife does not want to go with him or both parties are adamant to live separate and wants divorce with mutual consent under Section 13-B of the Hindu Marriage Act, the court below will release the petitioner on provisional bail to its own satisfaction for a period of one year and will monitor the relationship between the parties by calling both of them every three months in the Court and in the event the Court below finds that good conjugal relationship have been restored between husband and wife and wife does not make any complain about the physical and mental torture committed by the petitioner during the period of her stay



with him or the conjugal relationship could not be restored on account of indifferent attitude of wife or both parties have agreed to live separate and take divorce with mutual consent under Provisions of Section 13-B of the Hindu Marriage Act, the court below will confirm the provisional bail granted to the petitioner after one year,

It is made clear that in the event the petitioner does not surrender in the Court below along with wife, as ordered above, or the petitioner refuses to keep the wife with him when she become ready to go with him to live or the wife during the period of monitoring makes complain about physical and mental torture committed by the petitioner, it will be open to the Court below to pass appropriate order in accordance with law including cancellation of provisional bail granted to the petitioner without taking into consideration the observations made above by this Court.

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(Sanjay Priya, J)

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