

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35482 of 2016

Arising Out of PS.Case No. -190 Year- 2016 Thana -MAHILA P.S. District- BHOJPUR

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Sanjay Kumar son of Askshaybar Singh, resident of Village: Bhediya, P.O: Korhatand, P.S: Simari, District: Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Guriya Devi wife of Sanjay Kumar, resident of Aama Mahmadpur, P.S: Udwantnagar, district: Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sada Nand Roy
For the Opposite Party/s : Mr. Smt. Renuka Ratnakar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

06/ 17-03-2017 Heard learned counsels for the petitioner, State and 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 341, 323, 498A, 406, 420, 504/34 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 cheating the informant.

It is submitted by learned counsel for the petitioner that the informant was married from before with one



Tarkeshwar Prasad. Statement to that effect has been made in paragraph 8 of the petition, which reads as follows:-

“That the petitioner enquires about the matter and informed that O.P. No. 2 Guriya was already married with one Tarkeshwar Prasad, son of Bhola Prasad of Village – Dhamar, P.S. Ara, District – Bhojpur as because there was some dispute between the husband and wife, and she was already to separate her and without settling the judicial separation and evidence, marriage was performed by the present O. P. No. 2. Further it is relevant to state here that Lamina Devi who again present at the time of second marriage of the O.P. No. 2.”

It is further submitted that, at present, also the informant is residing with said Tarkeshwar Prasad and informant herself deserted the petitioner in 2009, though, the petitioner has not denied the marriage with the informant. The petitioner is still ready to keep the informant with dignity and honour.

Counsel for the informant submits that the informant is not ready to reside with the petitioner since the petitioner has performed second marriage, though, admits that the informant was earlier married with Tarkeshwar Prasad and said marriage has not been dissolved till date.

The matter was referred to the Mediation and



Conciliation Centre of the State Legal Services Authority vide order dated 02.02.2017. The report of the Mediator at Flag 'X' dated 20.02.2017 reflects that the issue could not be resolved through the process of mediation.

It is further submitted by learned counsel for the petitioner that the petitioner is a bicycle puncture mechanic and he is not able to make payment of one time settlement amount or monthly payment, but, reluctantly he is ready to make payment of Rs.500/- per month from April, 2017 to the informant by depositing the same in her account by second week of every succeeding month.

Counsel for the informant is ready to accept the offer of the petitioner and undertakes to submit bank account number on affidavit before the learned court below within a period of three weeks.

Considering the present stand of the parties and the fact that the informant has not denied the non-dissolution of her earlier marriage with Tarkeshwar Prasad, 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 Bhojpur Mahila P.S. Case No. 190 of 2016, 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 informant to file application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J.)

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