

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39642 of 2016

Arising Out of PS.Case No. -1410 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Subhash Chandra Mehrotra, S/o Late Harvansh Lal.
 2. Smt. Poonam Mehrotra, W/o Subhash Mehrotra Both Resident of Opposite Sai Temple, Gate No. 3, Prakash City, Bajpur Road, Kashipur, Uttarakhand.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shreya Mehrotra, W/o Apurva Mehrotra, D/o Manoj Kapoor, at present residing at Ganga Babu Ki Theki (Theki House), Near Kali Asthan, Patna City, P.S. Chowk, District Patna.

.... Opposite Party/s

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With

Criminal Miscellaneous No.41519 of 2016

Arising Out of PS.Case No. -1410 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

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Apurva Mehrotra S/o Subhash Chandra Mehrotra Resident of Opposite Sai Temple, Gate No.3, Prakash City, Bajpur Road, Kashipur, Uttarakhand.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shreya Mehrotra W/o Apurva Mehrotra, D/o Manoj Kapoor at present residing at Ganga Babu Ki Theki (Theki House), Near Kali Asthan, Patna City, P.S.- Chowk, District- Patna.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.39642 of 2016)

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Opposite Party/s : Mr. Dr.Mrityunjaya Kr.Gautam

(In Cr.Misc. No.41519 of 2016)

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Opposite Party/s : Mr. Dr.Mrityunjaya Kr.Gautam

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

07/ 30-03-2017

Heard learned counsel for the petitioners, State



and learned senior counsel for the complainant-opposite party no.2.

The petitioners of Cr. Misc. No. 39642 of 2016 being the parents of the husband of the complainant and petitioner of Cr. Misc. No. 41519 of 2016 being the husband of the complainant are apprehending their arrest in a complaint case wherein processes have been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code.

The accusation as per the complaint petition is that the complainant Shreya Mehrotra got married with petitioner, Apurva Mehrotra on 27.10.2004. Two children were born out of the wedlock but the cruelty was inflicted on the complainant for non-fulfillment of further dowry demand of a car. The complainant was forcibly administered some medicine by fraudulently, getting her treated for some mental abrasions though she is perfectly alright. Ultimately the complainant was driven out from the matrimonial house and two children of the complainant have been forcefully kept by her husband Apurva Mehrotra.

Learned counsel for the petitioners submits that the petitioner Apurva Mehrotra admits his marriage with the



complainant and birth of two children. The differences between the petitioner, Apurva Mehrotra and the complainant has reached to a level where the reconciliation is not feasible. Petitioner Apurva Mehrotra filed Matrimonial Suit No. 494 of 2015 on 14.10.2015 before the Principal Judge, Family Court, Udham Singh Nagar Camp Kashipur, Uttarakhand with a prayer for divorce. The said matrimonial suit got transferred in pursuance to order dated 27.01.2016 passed in Transfer Petition (Civil) No. 1790 of 2015 by Apex Court to the court of learned Principal Judge, Family Court, Patna. The petitioner Apurva Mehrotra was ready to make payment of one time settlement amount but complainant declined to accept the said offer. Petitioner is providing good education to the children and maintaining them. The complainant has filed Guardianship Case No. 49 of 2016 at Patna. The petitioner undertakes to appear in the said proceeding regularly. The petitioner further undertakes to allow the complainant to meet the children once in a month and will give adequate instruction to the concerned school so that the mother (complainant) will be allowed to meet them even in the school. The petitioner further undertakes to intimate the complainant with regard to above instruction being to the concerned school of the children. At present, the petitioner is



further ready to make payment of Rs.7,000/- per month from May, 2017 by depositing the same in the bank account of the complainant by second week of every succeeding month. Though statement to abovementioned undertaking has not been made on affidavit but learned counsel for the petitioner submits that husband of the complainant Apurva Mehrotra will submit an affidavit to aforesaid effect before the learned court below within a period of four weeks.

Learned senior counsel for the complainant submits that the complainant is not ready to accept any other offer except the offer of resuming conjugal life. She is not ready to accept the offer of one time settlement amount or the monthly payment. However, if the petitioner Apurva Mehrotra hands over the custody of the children to the complainant in that eventuality the complainant will have no grievance against the petitioner for the present.

Considering the rival submissions of the parties, the marriage between the parties and birth of two children are not in dispute. This is also not in dispute that the children are residing with the husband of the complainant, who is providing education to them at Kashipur. So far as the claim of the complainant with regard to the custody of the children is



concerned, in view of this Court this issue cannot be decided in the present proceeding. Moreover, Guardianship Case No. 49 of 2016 is pending and the husband of the complainant has undertaken to appear in the said proceeding regularly.

Keeping in view of the totality of the issue involved it appears that the thrust of accusation is against the husband of the complainant, though there is omnibus and general accusation against other family members including the parents of the husband of the complainant.

Considering the filing of the matrimonial suit at earlier point of time, in view of providing education and bringing up to children, till any order being passed in the guardianship case, in order to save the complainant and the children, at present, from destitution and vagrancy, with a lurking hope that the issue may reconcile in future, let the above named petitioners be released on anticipatory bail in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Patna City, Patna in connection with Complaint Case No. 1410 of 2015, subject to the conditions as



laid down under Section 438(2) of the Cr.P.C.

Petitioner Apurva Mehrotra will deposit the aforesaid undertaken amount of Rs.7,000/- per month before the learned court below from May, 2017 by 10th day of every succeeding month.

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

Three consecutive defaults in making deposit will give liberty to the complainant to file application for cancellation of bail of the petitioner Apurva Mehrotra.

The bail bond of petitioner Apurva Mehrotra will be accepted on filing affidavit to the following effect;-

- (i) that he will regularly deposit Rs.7,000/- from May, 2017;
- (ii) that he will allow the complainant to meet the children, at least, once in a month even in the school of the children and will give necessary instructions to the concerned school with intimation to that effect to the complainant within a month;
- (iii) that petitioner, Apurva Mehrotra will



regularly appear in Guardianship case, matrimonial suit as well as in the present complaint case;

- (iv) that the affidavit will also stipulate that if the children so desire then petitioner Apurva Mehrotra will bring them to Patna during their vacation in the school;
- (v) that he will deposit Rs.7,000/- by 10th day of every succeeding month from May, 2017.

The abovementioned deposit will be released by the learned court below in favour of the complainant if the complainant files an application for such release before the learned court below and if the complainant submits bank account number on affidavit before the learned court below then thereafter the petitioner, Apurva Mehrotra will deposit the monthly of Rs.7,000/- in the bank account of the complainant.

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

(Dinesh Kumar Singh, J.)

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