

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26153 of 2016

Arising Out of PS.Case No. -48 Year- 2016 Thana -SURSAND District- SITAMARHI

Navin Kumar Nirala, son of Birendra Paswan, resident of Village- Birakh,
P.S- Sursand, District- Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajnandan Kumar, Advocate

For the Opposite Party/s : Mr. Sri Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 18-03-2017 Heard learned counsels for the petitioner,
informant and the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 379, 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

Basic accusation is of torture for non-fulfillment of dowry demand. The prosecution case as per the written report dated 30.03.2016, submitted by the informant, namely, Radha Kumari, before the Officer In-charge is to the effect that she was married with the petitioner, Navin



Kumar Nirala, on 20.04.2015, as per the Hindu rituals. Thereafter, she went to in-laws house and stayed there for sometime, but thereafter the parents and brothers of the petitioner started inflicting torture for non-fulfillment of further dowry demand of rupees two lacs and a motor-cycle and, thereafter, she was driven out from the matrimonial house after her belongings being snatched. On the basis of the aforesaid accusation, Sursand P.S. Case No. 48 of 2016 was registered, under sections 341, 323, 379, 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The petitioner and the informant are present before this Court.

Learned senior counsel for the petitioner submits that the petitioner was kidnapped and was taken to Gayatri Temple, Sitamarhi, where he was forcibly asked to put vermilion on the head of the informant, but in the said marriage no family member of the petitioner participated. After the alleged marriage, the petitioner was sent by his parents for completing the studies of Engineering. In fact, the petitioner never stayed with the informant and marriage has never been consummated. Moreover, the '*Sindor Daan*', in the temple, was done under coercion and force. Statement



has been made in paragraph no.11 of the petition that the petitioner is ready to keep the informant with full dignity and honour, but the parents of the informant are trying to force the petitioner to keep him in his own house. Paragraph No.11 reads as under :-

"That the petitioner begs to state that considering the situation since both the parties belongs to same caste the petitioner is ready to keep her with full dignity which was offered in the court below also but the parents of the informant are trying to force the petitioner to keep in his own house as "Ghar Jamai". They have their eyes on the earning of the petitioner as an engineer.

A supplementary affidavit dated 16.03.2017 has been filed on behalf of petitioner stating therein that the marriage, in the temple, was done after kidnapping of the petitioner, but no rituals was performed in presence of the parents of the petitioner or the members of the society. Hence, the petitioner is ready to perform marriage with the informant as per Hindu rituals in presence of the family members and the petitioner undertakes not to demand any money or dowry for the sake of marriage with the informant.

Learned counsel for the informant submits that the marriage between the informant and the petitioner, in the temple, is not being denied by the petitioner. No



matrimonial suit has been filed for declaring the marriage in the temple as nullity. The informant is ready to resume the conjugal life and also ready to accept performance of marriage with the petitioner as per Hindu rituals within two months but that may not amount to be treating the earlier marriage, in the temple, as a nullity.

Learned senior counsel for the petitioner agrees to terms of the informant.

Considering the rival submissions of the parties without giving any opinion with regard to the factum of marriage or the agreement between the parties to perform marriage with celebrations under the Hindu rituals in presence of the family members, let the above named petitioner be released on anticipatory bail provisionally for six months, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Pupri at Sitamarhi, in connection with Sursand P.S. Case No.48/2016, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional bail of the petitioner will be



confirmed by the learned Court below on resolution of the
issue between the parties.

(Dinesh Kumar Singh, J)

Ashwini/-

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