

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34781 of 2016

Arising Out of PS.Case No. -832 Year- 2012 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

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Nikhil Kumar son of Sri Prakash Singh Resident of Village- Charaul, P.S.-
Rupau, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mani Kumari D/o Sri Karya Nand Singh Resident of Village- Rapau,
P.S.- Rupau, District- Nawada, at present W/o Rajiv Sharma, at present
wife of Rajiv Sharma, Son of Sheo Bechan Sharma, Resident of
Village- Rostampur, P.S. Islampur, District- Jehanabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sinha

For the Opposite Party/s : Mr. Sri Atul Chandra

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

ORAL ORDER

05/ 20-02-2017

Heard learned counsels for the petitioner and the

State. None appears for the complainant-opposite party no. 2.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A and 494 of the Indian Penal Code.

The basic accusation is of torture and performing second marriage.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the



complainant in 2009. The complainant herself deserted the petitioner and has performed second marriage with Rajeev Sharma, Son of Shiv Bachan Sharma and from the second marriage of the complainant there is a female child also. A certificate to that effect has been issued by the Panchayat Mukhiya as contained in Annexure-2. Hence, in the circumstances, it is not proper for the petitioner to keep the complainant. However, the complainant was filed in 2012 but the petitioner could not move earlier since the complainant has performed second marriage nor any process was served. Hence, the petitioner preferred the bail application in 2016.

On the submission of the petitioner that the complainant has performed second marriage the notices were issued to the complainant vide order dated 18.08.2016. The ordinary process of notice was directed to be served to the complainant-opposite party no. 2 through her lawyer appearing before the learned court below. The office note dated 10.11.2016 reflects that ordinary process of notice was served to the counsel for the opposite party no. 2 appearing before the learned court below. However, service report of the registered cover notice was not received. Hence, vide order dated 15.11.2016 fresh notices were issued to the complainant-opposite party no. 2 by registered



cover as well as ordinary process.

The office note dated 28.01.2017 reflects that the ordinary process of notice issued to the complainant-opposite party no. 2 has been received by her father while registered cover notice has been received by another family member of the complainant-opposite party no. 2 which gets reflected from the report of the process server kept at Flag”. In the circumstances, the notices issued to the complainant-opposite party no. 2 treated to be deemed valid service vide order dated 31.01.2017. Today none appears on behalf of opposite party no. 2.

It is further submitted that the petitioner has not performed second marriage. Statement to that effect has been made in paragraph no. 7 of the petition, which reads as follows:-

“That it is further stated that allegation levelled against petitioner to arrange second marriage which is out of the true.”

Considering the fact that in spite of twice notices being served the opposite party no. 2 chose not to appear to controvert the contention of the learned counsel for the petitioner, let the above named petitioner be released on anticipatory bail for, in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the



like amount each to the satisfaction of learned Sub-divisional
Judicial Magistrate, Nawada in connection with Complaint Case
No. 832 of 2012, subject to the conditions as laid down under
Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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