

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57924 of 2018

Arising Out of PS. Case No.-1461 Year-2017 Thana- COMPLAINT CASE District- Araria

Najmul Haque @ Najmul, S/o Majahrul Haque, R/o Village- Mohani,
Islampur, P.S. Baunsi (Basaithi), District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bibi Jubeda Khatoon, W/o Najmul Haque, D/o Jaidul Haque, R/o Village- Kusingaon, P.S. Araria, District- Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gopal Kumar Jha
For the Opposite Party/s : Mr. Sri Panchanand Pandit

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 26-11-2018 Heard learned counsel for the petitioner, learned counsel for the complainant-opposite party no. 2 and Mr. J.N. Thakur, learned counsel for the State.

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 offence punishable under Section 498A of the Indian Penal Code.

On submissions and statement made in paragraph 10 of the petition to the effect that the petitioner is ready to keep the complainant as wife with full dignity and honour, the notices were issued to the complainant. The complainant and the petitioner are present in the Court.



The prosecution case as per complaint petition is that the marriage of the petitioner and the complainant was performed on 07.12.2009, but subsequently demand of a motorcycle and a colour T.V. was made by the petitioner and other in-laws family members and for non-fulfillment of the same the torture was inflicted. Subsequently, the petitioner performed second marriage. However, cognizance was only taken for the offence punishable under Section 498A of the Indian Penal Code.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of a female child. It is further submitted that the petitioner is still ready to keep the complainant as wife with full dignity and honour, statement to that effect has been made in paragraph 10 of the petition, which reads as follows:-

“..... and ready to keep the complainant with full dignity and honour.”

The petitioner had filed petition under Section 281 of the Muslim Law for restitution of conjugal rights being Matrimonial Case No. 117 of 2017 which has been dismissed on contest vide order dated 04.09.2018 passed by learned Principal Judge, Family Court, Araria.



However, learned counsel for the complainant submits that the complainant is not ready to accept the offer of the petitioner since the petitioner has performed second marriage and she is apprehensive due to the past conduct of the petitioner. The petitioner has been directed to make payment of maintenance amount of Rs.3,000/- per month to the complainant and Rs.1,000/- to the minor child till the performance of her marriage from the date of judgment dated 04.09.2018 passed by learned Principal Judge, Family Court, Araria in Maintenance Case No. 159 of 2017 but the petitioner has not been making payment of the same. Hence, the complainant at present only claims the maintenance amount.

It is submitted by learned counsel for the petitioner that the petitioner has challenged the maintenance order.

Keeping in view the fact that the issue is not likely to be reconciled but since the maintenance order has been passed and it is expected from the petitioner to make such payment till the order is being modified or set aside by any superior court, which will save the complainant and the minor child for the present from destitution and vagrancy.

In the circumstances, on filing of proof with regard to payment of the maintenance amount as directed by the learned



Principal Judge, Family Court, Araria in Maintenance Case No. 159 of 2017 vide order dated 04.09.2018, the petitioner is directed to be released on anticipatory bail, in the event of 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 Chief Judicial Magistrate, Araria in connection with Complaint Case No. 1461C of 2017, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

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