

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36871 of 2018

Arising Out of PS. Case No.-1786 Year-2016 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Manoj Thakur @ Mantu Thakur, Son of Kailash Thakur,
 2. Pankaj Thakur @ Pankaj Kumar Thakur, Son of Kailash Thakur,
 3. Mira Devi, Wife of Manoj Thakur @ Mantu Thakur, All resident of Village- Nawada, P.S.- Kharik, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rani Devi, Wife of Manoj Thakur @ Mantu Thakur, Daughter of Sunil Thakur, Resident of Karaila, P.S.- Madhusudanpur (Nathnagar), District- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha
For the Opposite Party/s : Mr. Md. Anzarul Haque Sahara

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 30-11-2018 Heard Mr. Ranjan Kumar Jha, learned counsel for the petitioners, Mr. Manoj Kumar Jha, learned counsel for the complainant-opposite party no. 2 and Mr. J.N. Thakur, learned counsel for the State.

The petitioner no. 1, being the husband of the complainant, petitioner no. 2, being the brother of the husband of the complainant and petitioner no. 3, being the third wife of 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 offence punishable under Sections 323, 498A/34, 494 of the Indian Penal Code and



Section 4 of Dowry Prohibition Act.

The prosecution case as per the complaint petition is that the marriage between the complainant and petitioner no. 1 was performed in 2005. Subsequently, they were blessed with three children but after some time, torture was inflicted for non-fulfillment of further dowry demand of Rs.50,000/-, colour T.V. and a Hero Honda motorcycle on the complainant by the petitioners and other in-laws family members.. Ultimately, the complainant driven out from the matrimonial house, leading to filing of complaint petition.

It is submitted by learned counsel for the petitioners that it was the complainant who deserted the petitioner no. 1 and hence, he has performed another marriage. It is further submitted that the first wife of the petitioner no. 1 also deserted him and she is residing with some relative. However, petitioner no. 1 admits his marriage and birth of three children and is ready to keep the complainant as wife with full dignity and honour, statement to that effect has been made in paragraph 20 of the petition, which reads as follows:-

“That ignoring all above aspect of the matter the petitioner No.1, who is the husband of the complainant is still ready to keep the complainant as



wife with all dignity, provided she also become ready for that.”

Considering the present stand of petitioner no. 1, this Court vide order dated 28.06.2018 issued notice to the complainant-opposite party no. 2. The petitioner no.1 and the complainant are present in the Court.

Learned counsel for the complainant submits that the complainant is not ready to resume the conjugal life since the petitioner has performed marriage with another lady. However, out of three children, one is residing with the petitioner no. 1 and the other two children are residing with the complainant and it is further submitted that the complainant is not in a position to maintain herself and she is facing hardship.

In alternative, learned counsel for the petitioners submits that petitioner no. 1 is ready for parting ways on payment of one time settlement amount. The said offer is also not acceptable by the complainant. It is lastly submitted that petitioner no. 1 is ready to make payment of Rs.1700/- per month to the complainant for the welfare of the complainant and the two children residing with her from January, 2019 by depositing the same in the bank account of the complainant by second week of every succeeding month.



Learned counsel for the complainant submits that the complainant reluctantly accepts the offer and undertakes to submit her bank account number on affidavit before the learned Court below within a period of three weeks.

Considering the present stand of the parties in order to save the complainant and the children from destitution and vagrancy for the present with a lurking hope that the issue may reconcile in future, let the above named petitioners be released on bail 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) each with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Bhagalpur in connection with Complaint Case No. 1786 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 being passed in matrimonial, maintenance or any other connected proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file application for cancellation of bail of petitioner no. 1.



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

(Dinesh Kumar Singh, J)

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