

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38047 of 2018

Arising Out of PS. Case No.-51 Year-2017 Thana- MAHILA P.S. District- Patna

Binoy Kumar Pathak, Son of Niranjan Pathak, Resident of Village and Post
office Garhpura Maraha, Police Station Hasanpur, District- Samastipur.

... .. Petitioner

Versus

1. The State of Bihar.
2. Ranjana Kumari, Daughter of Shashi Chandra Jha, Resident of Quarter No.
40, R. Block Chaprasi Quarter Police Station- Sachibalay, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Dhar Jha, Adv.

For the Opposite Party/s : Mr. Sri Manish Kumar 2, A.P.P.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-07-2018 Heard learned counsels for the petitioner and State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 498A, 494 and 323 of the IPC and Sections 3/4 of the Dowry Prohibition Act.

The prosecution case as per the informant Ranjana Kumari, is to the effect that her marriage was performed with the petitioner on 06.12.2013, but subsequently for non-fulfillment of further dowry demand of Rs. 2,50,000/- and motorcycle, the informant was assaulted, tortured and ultimately she was driven out from her matrimonial house. It is also alleged that the petitioner has performed second marriage with one Shailputri Sargam on 22.05.2017.



Learned counsel for the petitioner submits that earlier the informant had filed Complaint Case No. 26803C of 2014, with accusation under Section 498A of the IPC and Section 4 of the D.P. Act, wherein the evidence is going on at pre-charge stage. The petitioner also filed Matrimonial Suit No.93 of 2014 for restitution of conjugal rights, though the same has been dismissed for default but the petitioner has filed an application for restoration of the same. The petitioner is ready to keep the informant as his wife with full dignity and honour. Statement to that effect has been made in Paragraph 10 of the petition which reads as follows:

“That petitioner is always ready to keep the informant as his wife with full dignity and love but the informant is not ready to live with the petitioner in her Sasural reasons best known to her.”

It is submitted by the learned counsel for the informant that though the informant earlier filed Complaint Case No. 26803C of 2014 and after filing of the said complaint the informant is not residing with the petitioner but she is being tortured by the petitioner through telephone and the petitioner has also performed second marriage.

Considering the rival submission of the parties, in view of the fact that in the earlier complaint filed with accusation under



Section 498A IPC and Section 4 of the D.P. Act, the trial is going on, the informant admits that she is not residing with the petitioner since 2013, and no documentary evidence has been brought on record to suggest that any threat has been given to the informant through telephone, though the petitioner has not denied the factum of second marriage but even assuming the accusation of second marriage which is bailable offence, let the above named petitioner be released on anticipatory bail in the event of arrest/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 like amount each to the satisfaction of learned 1st Class Judicial Magistrate, Patna, in connection with G.R. Case No. 4906 of 2017, arising out of Patna Mahila P. S. Case No. 51 of 2017, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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