

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12570 of 2016

Arising Out of PS. Case No.-51 Year-2015 Thana- MAHILA P.S. District- Patna

Rajesh Kumar Bhagat, S/o- Sri Bhulan Prasad Bhagat, Resident of Mohalla -
Bhagatpada, P.S.- Pakur, District - Pakur (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Sinha
For the Opposite Party/s : Mr. Sanjay Kr. Singh(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

13 06-04-2018

Heard Mr. Birendra Kumar Sinha, learned Senior

Counsels for the petitioner, Mr. Sushant Kumar, learned counsel
for the informant and learned APP for State.

The petitioner being the husband of the informant is
apprehending arrest in a case registered for the offences
punishable under Sections 498A, 468 and 504/34 of the IPC and
Sections 3/4 of the Dowry Prohibition Act.

The prosecution case, as per the written report of Priyanka
Prakash, opposite party no.2, dated 03.11.2015 submitted to the
Station House Officer, Gandhi Maidan Mahila Police Station is
to the effect that the informant was married with the petitioner,
Rajesh Kumar Bhagat on 29.05.2010, as per the Hindu Rites,
but from the next day of marriage, further demand of dowry of
Rs. 5 lacs was made and due to non-fulfillment of the same,



torture was inflicted. In November, 2010, the petitioner assaulted the informant for no reason and ultimately get the informant reached to her parents' house, which led filing of the written report.

Learned Senior Counsel for the petitioner submits that the petitioner admits the marriage with the informant having no issue. Initially, for few years, the petitioner tolerated the violent attitude of opposite party no.2/the informant, but subsequently, he came to know that the informant is mentally abraded, for which she was under treatment of Doctor K.K. Singh, at Ranchi since 2004 itself. The certain medical documents to that effect has been brought on record, as Annexure-3. Hence, the petitioner realized that the vital suppression was made by the family members of opposite party no.2/the informant at the time of fixation of marriage. Hence, the petitioner filed Matrimonial Suit No. 03 of 2015 before the learned Principal Judge, Family Court, Pakur on 22.06.2015 with a prayer for dissolution of marriage on the ground of 'cruelty' and 'desertion'. Subsequently, the said matrimonial suit was transferred from Pakur to Patna in pursuance to the order dated 18.11.2016, passed in Transfer Petition (C) No. 1711 of 2015, by the Supreme Court of India. Consequently it has been numbered as



Matrimonial Suit No. 1352 of 2016, which is now pending before learned Principal Judge, Family Court, Patna. In the said matrimonial suit, initially the notices were issued on 23.09.2015, and thereafter, the present case has been lodged as a retaliatory measure on 03.11.2015. The informant/opposite party no.2 has also preferred an application for maintenance being Maintenance Case No. 35 of 2016 and the same is also pending before the Principal Judge, Family Court, Patna. The matter was referred to the Mediation Centre of Bihar State Legal Services Authority on a joint prayer of the parties and during mediation also the informant went violent, as a result, the mediation failed, hence in the circumstances, the petitioner is not ready to keep the informant as wife as it will be a risk to life of the petitioner as well as the informant.

Learned counsel for the informant submits that the informant/opposite party no.2 has appeared before this Court on several occasions and she never behaved in a manner which suggests that the informant, in any way, is mentally abraded. In fact immediately after the marriage, the demand of dowry of Rs. 5 lacs was made and for non-fulfillment of the same, the torture was inflicted. The petitioner assaulted the informant and ultimately got her reached to her parents' house. Hence, it is the



petitioner who deserted the informant. The matrimonial suit was filed at Pakur by concealing everything from the informant. The medical document, which has been brought on record to suggest that opposite party no.2 is mentally abraded, are forged. The informant was never been treated for her mental abrasion. During mediation also, the informant made all effort to reconcile the issue. The informant is still ready to resume the conjugal life and she is ready to sacrifice anything to protect her life and harmony. Though, she is perturb with the wild accusation being levelled in the pleadings of the plaint of matrimonial suit, but she is ready to forgive such embarrassment and is ready to resume the conjugal life if the petitioner permits her to do so.

Considering the rival submissions of the parties, it appears that the matter is pending before this Court since, 2016, the matter was sent to mediation, but report of the mediator, kept at flag- 'B' dated 18.07.2016, reflects that the issue could not be resolved between the parties through the process of mediation.

This Court also made sincere endeavour to get the issue reconciled but keeping in view the inconsistent stand of the parties, it does not appear that it is likely to be resolved, at present.



However, learned counsel for the petitioner submits that at present, the petitioner is ready to make payment of Rs. 15,000/- per month to the informant from May, 2018 by depositing the same in the bank account of the informant by second week of every succeeding month.

Learned counsel for the informant submits that the informant reluctantly accepts the offer of the petitioner 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 informant from destitution and vagrancy with a lurking hope that the issue may reconcile in future, 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 Judicial Magistrate, 1st Class, Patna in connection with Mahila P.S. Case No. 51 of 2015, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

The above payment will be subject to any order being passed in matrimonial, maintenance and any collateral proceeding.



It is made clear that the Maintenance Court will decide the issue of maintenance particularly the quantum of maintenance after taking evidence and considering the source of income of the petitioner without being influenced by the quantum of amount the petitioner has agreed to pay at present.

Three consecutive defaults in making payment of the monthly amount will give liberty to the informant to file an application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J)

Amrendra/-

U		T	
---	--	---	--

