

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37088 of 2018

Arising Out of PS. Case No.-62 Year-2018 Thana- BHAGWAN BAZAR District- Saran

Prateek Prabhakar S/o Sri Bishamhar Prasad, R/o Mohalla- Veer Kuar Singh
Colony, P.S.- Bhagwan Bazar, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Singh
For the Opposite Party/s	:	Mr. J.N. Thakur
	:	Mr. Rajesh Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 06-10-2018

Heard learned counsels for the parties.

The petitioner and the informant are present in court.

The petitioner, being the husband of the informant is apprehending arrest in a case registered for the offences punishable under sections 498A,494,504 and 506 of the IPC.

The prosecution case got initiated with the written report dated 14.02.2018 submitted by Prabha Devi before the S.H.O. Bhagwan Bazar Police Station to the effect that inter-caste court marriage between the petitioner and the informant was solemnized on 16.11.2004 but after few months, the in-laws people started inflicting torture for non-fulfillment of dowry demand. Subsequently, the informant filed Complaint Case No. 2650 of 2006 levelling accusation under Section 498A of the IPC. The petitioner also filed Matrimonial Case No. 97 of 2008 before the learned Principal Judge, Family Court, Saran with a



prayer for divorce which was decreed vide judgment dated 09.01.2015 and decree dated 21.01.2015. The said judgment came to be challenged before this Court in Misc. Appeal No. 82 of 2015 wherein both parties agreed that misunderstanding between them has been resolved and they did not want to pursue the litigation and, consequently, since the issue was resolved and both sides decided to reside together, and later on they shifted to patna and starting residing there, the appeal was allowed and the suit was dismissed vide order dated 24.01.2017 passed in Misc. Appeal No. 82 of 2015.

Subsequently, the informant came to know that the petitioner has performed second marriage and consequently the petitioner started residing at Chapra though the informant is a teacher at Patna. On protest being made by the informant, she was being abused by the in-laws and the petitioner.

It is submitted by the learned counsel for the petitioner that the petitioner performed inter-caste marriage with the informant without any dowry and hence there is no question of demand of dowry. The petitioner tried to resolve the issue but since the informant used to reside at Patna and is a teacher in a school, hence she never bothered to respect the parents of the petitioner. Though the marriage was dissolved vide order



passed in Matrimonial Divorce Case No. 97 of 2008, but the same was unsettled since both sides agreed to resolve the issue. The petitioner made efforts to resolve the issue but it was the informant who is not ready to reconcile the issue. It is further submitted that the petitioner has not performed second marriage and he is still ready to keep the informant as wife with full dignity and honour. Statement to that effect has been made in paragraph 11 of the petition which reads as follows:

“That the prosecution story is false. The petitioner is always ready to reside with her at Patna or at Chapra.”

Learned counsel for the informant submits that this is not in dispute that it was a love marriage but subsequent to the marriage, the dowry demand was made and on non-fulfillment of the same, torture was inflicted upon the informant and she had definite information that the petitioner has performed second marriage and the petitioner took advantage of the fact that the informant was residing at Patna, in such circumstances, in spite of sincere efforts of the informant to resume the conjugal life and to save the life, particularly, of a minor child, the issue could not be reconciled due to the conduct of the petitioner, hence the informant has filed Domestic Violence Case No. 3207 of 2018 only for the purpose of getting a right of



residence. It is further submitted that this is not in dispute that the child is residing with the informant whom she is maintaining by herself. In the circumstances, unless the petitioner mends his ways and make some efforts, it is difficult to reconcile the issue.

Having heard learned counsel for the parties, it appears that on joint prayer of the parties, the matter was referred to the Mediation and Conciliation Centre of the Patna High Court vide order dated 27.07.2018. The report of the mediator kept at Flag 'A' dated 25.09.2018 reflects that the issue could not be reconciled through the process of mediation. This Court has also made efforts to get the issue reconciled between the parties but it does not appear that both sides are sincerely and truly willing to resolve the issue at present as they are putting blame and counter blame against each other. Hence, it does not appear that at present the resolution of dispute is feasible.

Learned counsel for the petitioner submits that the petitioner is ready to make payment of Rs.3500/- per month to the informant for the welfare of the child from November, 2018 by depositing the same in her bank account by second week of every succeeding month.

The learned counsel for the informant, on instructions,



submits that the informant accepts the offer and is ready to submit her bank account number within a period of two weeks from today by filing the same on affidavit before the learned court below.

Considering the present stand of the parties, in order to save the informant and the minor child for the present from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Saran at Chapra in connection with Bhagwan Bazar P.S. Case No. 62 of 2018 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or any collateral proceedings.

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

The present order, in no way, will preclude the



parties to resolve the issue otherwise.

(Dinesh Kumar Singh, J)

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