

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37732 of 2018

Arising Out of PS. Case No.-566 Year-2017 Thana- COMPLAINT CASE District- Araria

Sanjeev Kumar S/o Nityanand Yadav, R/o Vill.- Mohania Purvi Tola, P.S.-
Banmankhi, Distt.- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mamta Devi D/o Kuldeep Yadav, W/o Snajeev Kumar, R/o Vill.- Mohania
Purvi Tola, P.S.- Banmankhi, Distt.- Purnea, presently residing in Vill.-
Tituaha, P.S.- Triveniganj, Distt.- Supaul.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Mahendra Thakur
For the Opposite Party/s :	Mr. Parmeshwar Mehta, APP
	Mr. Binod Kumar Yadav

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 27-09-2018 Heard learned counsels for the parties.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 498A and 494 of the IPC.

The basic accusation is of torture.

The prosecution case as per the complaint filed by O.P. No. 2, Mamta Devi is to the effect that she was married with petitioner in the year 2014, but subsequent to the marriage further dowry demand of T.V., godrej almirah and gold chain was made and for non-fulfillment of the same, torture was inflicted on her and she was driven out of the matrimonial house



on 23.03.2017.

It is submitted by learned counsel for the petitioner the petitioner admits his marriage with O.P. No. 2 and that the petitioner has not performed second marriage. However, statement with regard to performance of second marriage has not been made in the petition, but statement with regard to keeping the complainant as wife with full dignity and honour has been made in paragraph 8 of the petition which reads as follows:

“That the petitioner is unfortunate husband of the informant and always ready to keep his wife (complainant) with all honor and dignity but it is the complainant who herself don't want to live with the petitioner at her matrimonial house rather she wants to live at her parentage house with the petitioner and the instant case is nothing but outcome of that desire of the complainant.”

The complainant is present in Court. Learned counsel for the complainant submits that the petitioner has performed second marriage and is also having a child from the second marriage and that is the main stumbling block in reconciliation of the issue. However, the complainant would be satisfied if the



interim maintenance amount awarded by the learned Principle Judge Family Court, Supaul, vide order dated 29.06.2018 passed in Maintenance Case No. 59 of 2017 is paid by the petitioner. Certified copy of the aforesaid order has been produced before this court, which reflects that the learned Court below has directed the petitioner to make payment of interim maintenance of Rs. 2000/- per month from the date of application i.e., 24.03.2018.

Learned counsel for the petitioner submits that the petitioner undertakes to deposit the said amount in the bank account of O.P. No. 2 within a period of three weeks from today. It is further submitted that the bank account no. of O.P. No. 2 has already been received by the petitioner.

Considering the present stand of the parties, in order to save the complainant 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 SDJM, Araria in connection with Complaint Case No. 566(c) of 2017 subject to the conditions laid down in



Section 438(2) of the Cr.P.C.

The bail bond of the petitioner will be accepted by the learned Court below if the petitioner files proof with regard to deposit of up to date interim maintenance amount as directed by the learned Principle Judge, Family Court, Supaul in the account of the complainant.

Three consecutive defaults in making payment of interim maintenance amount till it is modified by any superior Court, will give liberty to the complainant to file application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J)

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