

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36272 of 2018

Arising Out of PS. Case No.-1530 Year-2017 Thana- KATIHAR COMPLAINT CASE
District- Katihar

=====

Taslimuddin, S/o Md. Israrul Haque @ Israrul Haque, Resident of Village -
Golaghat, P.O. - Sirnia, P.S. Katihar (Muffasil), District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shakila Khatoon, W/o Taslimuddin, D/o Abdul Hakim, Resident of Village -
Inayat Nagar (Surapartal), P.O. + P.S. - Manihari, District - Katihar.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Bipin Kumar

For the Opposite Party/s : Mr. Anishur Rehman

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 17-09-2018

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 Section 498A of the IPC and Section 4 of the Dowry Prohibition Act.

The prosecution case got initiated with the filing of Complaint Case No. 1530 of 2017 by Shakila Khatoon, O.P. No.

2. The complainant alleged that she was married to the petitioner on 05.11.2013 as per Muslim customs. After the marriage, further dowry demand of Rupees Two Lakh was made by the petitioner and in law family members and due to non-



fulfillment of the same, torture was inflicted upon her. The complainant was abused and assaulted by the petitioner and his family members. It is further alleged that on 12.04.2017, the complainant was assaulted and her elder son was taken away from her and she was driven out of the matrimonial house.

The petitioner and the complainant O.P. No. 2 are present. It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of two male children out of the wedlock. It is the complainant who has deserted the petitioner. The petitioner filed Matrimonial Case No. 2237 of 2015 for restitution of conjugal rights which was disposed of on 15.01.2016, on the basis of joint compromise petition, filed by both the parties, but thereafter again, the complainant deserted the petitioner, leading to filing of Matrimonial Case No. 417 of 2017, again for restitution of conjugal rights which is still pending before the learned Principal Judge, Family Court, Katihar. It is further submitted that the petitioner is still ready to keep the complainant and her children with dignity and honour. Statement to that effect has been made in paragraph 6 of the petition which reads as follows:-

“That the petitioner is the husband of the complainant



and he is ready to keep the complainant Shakila Khatoon and her children with full dignity and honour at his house peacefully.”

It is further submitted that the petitioner has not performed the second marriage though statement to that effect has not been made in the petition. The learned Magistrate has also not taken cognizance under Section 494 of the IPC.

Learned counsel for the complainant submits that the complainant is ready to accept the offer of the petitioner reluctantly as previously also the petitioner had given an undertaking to that effect, but he failed to comply the same, as a result, the life of the complainant and the two children has become miserable. However, both sides agree to appear before the learned Court below on 27th September, 2018, when the petitioner will take the complainant and her children to her matrimonial house and will keep them with full dignity and honour.

Considering the present stand of the parties, in order to save the complainant and her children from destitution and vagrancy with a lurking hope that the issue may reconcile in future, let the petitioner above named be released on provisional anticipatory bail for six months in the event of arrest or



surrender within six 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, Katihar in connection with Complaint Case No. 1530 of 2017 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned Court below in three eventualities - (i) if the matrimonial harmony is substantially restored, or (ii) if the complainant fails to appear before the learned court below or (iii) if the complainant gets reluctant to reconcile the issue.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

