

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12601 of 2019

Arising Out of PS. Case No.-1804 Year-2017 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Abhinav Kumar, son of Mr. B Kumar, Resident of f-14 Madhav Apartment
Durga Mandir Road, P.O. and P.S. Heerapur, District- Dhanbad, Jharkhand,
Presently residing at flat No. 1202 A wing Bhumi Heights Sector 8 , P.O. and
P.S. Kharghar, District- Navi Mubai, Maharastra.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mrs. Richa Sindhu, wife of Mr. Abhinav Kumar, Resident of Proffesor
Colony, Pipra Saraswati Nagar, P.O. and P.S. Ward No. 16, District-
Begusarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Apurv Harsh
For the Opposite Party/s :	Mr.Surendra Prasad Singh
	Mr. Shubhesh Pandey
	Mr. Neeraj Kumar
	Mr. Suraj Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 01-07-2019 Heard learned counsel for the petitioner, learned
counsel appearing on behalf of the State as well as learned
counsel appearing for the complainant.

Petitioner apprehends his arrest in connection with
Complaint Case No.1804C of 2017 for the offence punishable
under Sections 420, 406, 498A, 323, 504 of the Indian Penal
Code. The petitioner is the husband who got married with
Opposite party No.2 on 28.04.2016.

The allegation against the petitioner is that the
petitioner was married to one Nidhi Kumari and the marriage



got dissolved with the mutual consent of the parties. The opposite party No.2 further alleges that marriage could not be consummated and the petitioner also tortured opposite party No.2. Further allegation in the complaint that the petitioner is impotent and all these facts have been concealed from opposite party No.2 at the time of marriage.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case declaring the petitioner as impotent. Learned counsel for the petitioner refers the doctor report, Annexure-2, in order to bring home the point that the allegation of impotency levelled by opposite party No.2 is not correct inasmuch as the medical report shows the petitioner as potent person. He further refers supplementary affidavit in order to show that the opposite party No.2 herself filed a divorce case against the petitioner being Matrimonial Case No.34 of 2017 which has been decreed in favour of complainant, i.e., opposite party No.2 and the divorce decree has been granted by the Family Court, Begusarai. Accordingly, the submission is that the allegation against the petitioner is concocted and the petitioner deserves the privilege of anticipatory bail.

On the other hand, learned counsel appearing for



Opposite party No.2 submits that opposite party No.2 was compelled to file the divorce case inasmuch as the petitioner was not in a position to consummate the marriage and all these facts were concealed from the opposite party No.2 at the time of marriage. He further submits that in a divorce decree passed by the Family Court, a sum of Rs. 21 lakhs has been awarded as permanent alimony with litigation cost of Rs.10,000/- and petitioner may be directed to deposit this amount.

After having heard learned counsel for the petitioner and learned counsel for the informant as well as State and after perusal of the materials available on record, it transpires that the opposite party No.2 herself has filed a divorce suit against the petitioner and it appears that the opposite party No.2, i.e., wife is not willing to reside with husband who is allegedly an impotent person. This court by its order dated 01.03.2019 while issuing notice to opposite party No.2 has been pleased to grant provisional bail to the petitioner in which the petitioner has already submitted bail bond before the concerned Court.

Taking into rival submissions between the parties and the fact that parties are not willing to live together, let the provision bail granted to the petitioner by order dated 01.03.2019 be confirmed and bail bond furnished by the



petitioner for the provisional bail shall be treated to be submitted for this bail and conditions imposed vide order dt.01.03.2019 shall continue to operate.

Insofar as the amount of permanent alimony awarded to the opposite party No.2 is concerned, opposite party No.2 is free to take all legal steps for realisation of that amount from the petitioner in accordance with law.

(Anil Kumar Sinha, J)

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