

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16991 of 2019

Arising Out of PS. Case No.-674 Year-2018 Thana- SIWAN MUFFASIL District- Siwan

LALIT SHAH @ LALIT KUMAR SHAH Son of Pravha Shankar Shah
Resident of Village - Pedong Bazar, P.S.- Pedong, District - Pedong at present
Malviya nagar, Nai Basti, P.S. Mahadeva District - Siwan

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Reena Kumari Prasad, Daughter of Rajendra Prasad Resident of Village - Ethalbari, P.S. Falakata, District - Alipurduar, (W.B)

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Chandra
For the Opposite Party/s : Mr.Raj Ballabh Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

8 13-08-2019 The petitioner apprehends his arrest in connection with Mufasil (Mahadeva) P. S. Case No. 674 of 2018 registered under Section 313, 323, 498A and 506/34 of the Indian Penal Code.

Allegation against the petitioner, as per FIR lodged by the informant stating therein, is that marriage of the informant was solemnised with the petitioner on 08.03.2014, but after some time, petitioner along with other accused persons demanded Rs. 5 lacs and a Swift Desire car from the informant and her family members and due to non-fulfillment of demand, informant was being assaulted by the petitioner and others physically and mentally. It has further been alleged that petitioner had filed a petition, under Section 9 of the Hindu Marriage Act, for



restitution of conjugal rights, in which decree was passed and informant went to the house of the petitioner at Siwan where she was kept in Mahadeva Mishra Bhavan at Nae Basti, Siwan. It has also been alleged that again petitioner assaulted the informant and tried to kill her on 24.11.2018.

Mr. Anil Chandra, learned counsel appearing on behalf of the petitioner, submits that there is incompatibility between the petitioner and O.P.No. 2. He submits that earlier a case, under Section 9 of the Hindu Marriage Act, for restitution of conjugal right, was filed by the petitioner in which decree was passed in favour of the petitioner. He further submits that before the decree, under Section 9 of the Hindu Marriage Act, was passed, the informant i.e., O.P.No. 2, had filed a divorce suit bearing Matrimonial Suit No. 126 of 2016, but the same was subsequently withdrawn upon compromise. Learned counsel further submits that petitioner has also filed a divorce suit bearing Mat. Suit No. 41 of 2018 for dissolution of marriage before the District and Sessions Judge, Kalimpong, which is still pending.

Mr. Shashi Bhushan Kumar, learned counsel appearing on behalf of the O.P.No. 2, on the other hand, vehemently opposes the prayer for anticipatory bail and submits that O.P.No. 2 has



been tortured by the petitioner physically and mentally continuously. Learned counsel further submits that in fact, O.P.No. 2 has filed a case of maintenance under Section 125 Cr.P.C. before the learned Judicial Magistrate, Aliporedwar in which an order has been passed by the learned Judicial Magistrate, dated 20.06.2016, directing the petitioner to pay a sum of Rs. 10,000/- per month as interim maintenance. Learned counsel further submits that despite this direction, petitioner has not paid a single farthing to the informant/O.P.No. 2. Learned counsel further submits that a proceeding, under Section 24 of the Hindu Marriage Act, was also initiated against the petitioner by the informant before the Family Court at Kalimpong in which final maintenance order has been passed on 19.06.2019 in Misc. Case No. 2 of 2019, directing the petitioner to pay a sum of Rs. 10,000/- per month to the informant from the date of filing of the case i.e., from 27.11.2018 along with arrears of maintenance to the tune of Rs. 80,000/- to be paid in 10 equal installments but despite the order of maintenance passed by the Court of Aliporedwar and Kalimpong, no payment has been made by the petitioner to the informant/O.P.No. 2.

During the course of argument, learned counsel for the petitioner makes offer to pay a sum of Rs. 7,500/- per month to



the informant as living cost, subject to final order, as may be passed in appeal by the competent court and this offer shall not be taken as admission on the part of the informant or the petitioner.

Upon this, learned counsel for the informant submits that the offer made by the petitioner is acceptable to the informant subject to the final order, if any, passed in the regular proceeding for maintenance by the competent civil court.

After having heard learned counsel for the parties and in view of nature of dispute and the offer made by the petitioner and accepted by the informant, let the petitioner, above-named, in the event of arrest or surrender before the court below within a period of six weeks from the date of receipt of a copy of this order along with proof of receipt making payment in the bank account of the informant, be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned SDJM, Siwan in connection with Mufassil (Mahadeva) P.S. Case No. 674 of 2018; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

However, it is made clear that petitioner will transfer a sum of Rs. 7,500/- in the bank account of the informant/O.P.No.



2 bearing SB A/c No. 430110100004077, IFSC Code- BK100004301 at Ethelbari Branch, Bank of India starting from 1st September, 2019 to be paid by 7th day of every month.

It is made clear that if the petitioner fails to make monthly payment in the bank account of the informant, the informant shall be at liberty to file an appropriate petition before the court below for cancellation of his bail bond.

This application is disposed of with the above terms and conditions.

(Anil Kumar Sinha, J)

sujit/-

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

