

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28419 of 2019

Arising Out of PS. Case No.-788 Year-2015 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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DULARCHAND KUMAR, S/o Ishwar Mahto @ Ishwar Prasad, R/o village- Jorarpur, P.S.- Deepnager, District- Nalanda. At present Shivaji Colony Ram Chandrapur Bihar Sharif, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Priyanka Shashi W/o Dularchand Kumar R/o village- Shivaji Colony Bihar Sharif, District- Nalanda. and D/o Jayprakash Shashi, R/o village- Baijnathpur, P.S.- Manpur, District- Nalanda. At present D/o Jayprakash Shashi, W/o Dularchand Kumar, village Jorarpur, P.S.- Deepnagar, P.O.- Pachhuri, Distt.- Nalanda aged about 20, Gender Female

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rana Baljit Singh, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 16-11-2019 None appears on behalf of the complainant. However,

Learned counsels for the petitioner and the State are present.

The petitioner, being the husband of the complainant, is apprehending arrest in a complaint case filed for the offences punishable under Sections 313 and 498A of the I.P.C. wherein process has been directed to be issued after cognizance being taken.

The prosecution case as per the complaint petition is that the complainant, Priyanka Shashi, was married with the petitioner, Dularchand Kumar in 2011. Though it was alleged



that earlier she was being kidnapped by the petitioner and others for which Deep Nagar P.S. Case No. 87 of 2011 was registered, but, in the statement of the victim recorded under Section 164 of the Cr. P.C., she denied the occurrence of kidnapping and accepted the factum of her marriage with the petitioner with consent. Subsequently, they were blessed with a female child. But in the year 2014, torture was inflicted upon the complainant at the hands of the petitioner, as a result, her pregnancy got terminated.

Learned counsel for the petitioner submits that the the petitioner admits his marriage with the complainant and there is nothing on record to suggest the accusation of termination of pregnancy of the complainant. It is further submitted that the petitioner has also filed Matrimonial Case No. 156 of 2015 for restitution of conjugal life and after disposal of the aforesaid matrimonial case, ultimately, he filed Matrimonial Case No. 156 of 2017 with a prayer for divorce. However, he is ready to withdraw the same. It is further submitted that the petitioner is still ready to keep the complainant as wife with full dignity and honour. A statement to that effect has been made in para 9 of the petition which reads as follows:-

“....That the petitioner is ready to keep his



wife with full honour and dignity.’

It appears that on joint prayer of the parties, vide order dated 08.08.2019, the matter was referred to the Mediation and Conciliation Centre, Patna High Court Legal Services Committee, by a Co-ordinate Bench of this Court. The report of the Mediator dated 26.09.2019 kept at ‘Flag-M’ reflects that the complainant did not appear before the Mediation Centre, as a result, the mediation failed. Today, also when the matter was called out none appeared on behalf of the complainant.

Considering the present stand of the petitioner and the fact that the complainant neither appeared before the Mediation Centre nor does she appear before this Court today, let the above named petitioner be released on provisional anticipatory bail for six months in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nalanda at Bihar Sharif in connection with Complaint Case No. 788C of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Let the learned Court below issue notice to the complainant for her appearance. On her appearance, the



petitioner will take the complainant to keep her as wife with full dignity and honour.

The provisional bail of the petitioner will be confirmed by 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)

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