

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5060 of 2018

Arising Out of PS. Case No.-30 Year-2009 Thana- BIKRAMGANJ District- Rohtas

Ramjee Singh S/o Late Ganesh Singh, R/o Village/Mohalla- Rupipur, P.S.-
Nokha, Distt.- Rohtas.

... .. Petitioner

Versus

1. The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Vindhyachal Singh, Advocate
For the State	:	Mr. Iftekhhar Mahmood, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8. 10-07-2019

This application has been preferred for quashing of the order taking cognizance dated 03.05.2013 passed by learned S.D.J.M., Bikramganj, Rohtas in connection with Bikramganj P.S. Case No. 30 of 2009 for which cognizance has been taken of the offence under Section 498A and 494/34 of the Indian Penal Code.

The marriage of the petitioner and the daughter of opposite party no. 2 had taken place in the year 1983. From the allegations that the petitioner had tortured his wife just after the marriage, later on a female child was born from the victim. It is also alleged that petitioner had performed second marriage without consent of his first wife in the year 1991.



It appears from the records that during pendency of the present application the parties have amicably settled their dispute. The petitioner has deposited a sum of Rs. 5 lakhs in the name of his wife and has also undertaken to take care of her medical expenses whenever required. In this connection the order dated 02.08.2017 and order dated 09.08.2017 passed in Cr. Misc. No. 25959/2017 is thus quoted hereunder for a ready reference: -

“Heard Sri Ashok Kumar Singh, learned counsel for the petitioner, Sri Vindhyachal Singh, learned counsel for the informant and Sri Humayou Ahmad Khan, learned Additional Public Prosecutor for the State.

The petitioner, in the present case, is seeking regular bail in connection with Bikramganj P.S. Case No. 30 of 2009 under Section 498(A), 302, 201/34 of the Indian Penal Code, pending before learned Judicial Magistrate, 1st Class, Bikramganj, Rohtas.

A perusal of the First Information Report would show that the informant is father of the victim Sunaina Devi. It is alleged that the said Sunaina Devi was married with the present petitioner in the year 1983. There was a female child born from the wedlock but the petitioner was committing several act of cruelty right from beginning.

It is alleged that the victim lady was harassed as present petitioner has kept one Juli Kumari. The informant further alleged that his daughter was



taken away after the *Vidai* from his village in the year 2009 but after sometime the petitioner went to his village and informed that his daughter Sunaina Devi had gone missing from Varanasi where she had gone with the present petitioner.

It is further alleged that the petitioner, his second wife namely, Manju Devi and one Navlakh Rai entered into conspiracy and after committing murder of his daughter her dead body was got disappeared.

In course of investigation, the victim lady Sunaina Devi came back/recovered, police submitted a charge-sheet under Section 498(A), 494 and 34 of the Indian Penal Code against the present petitioner, his second wife and Navlakh Rai. Cognizance has been taken thereafter vide order dated 03.05.2013 and the case was fixed for appearance of the accused. The petitioner surrendered after refusal of anticipatory bail he moved before the court of learned Sessions Judge, Rohtas vide Bail Petition No. 703/2017, where his application was rejected by the impugned order.

Learned counsel for the petitioner submits that the marriage is of the year 1983 and that there was also a female child, the life was going well without there being any earlier case lodged either by the victim or her father, however, because the victim lady went on missing in the year 2009 from Varanasi, present F.I.R. came to be lodged with allegations of torture and assault etc. which are only concocted and baseless.

Learned counsel for the petitioner submits that petitioner is a farmer and has got responsibility towards his wife including that of marriage of the young daughter and this being the position he



should be granted regular bail.

On 15.06.2017, when this matter came for Admission, learned counsel for the informant also entered into appearance and participated in course of argument. The facts are noted in the order dated 15.06.2017. It is a common submission that in the present circumstance the victim lady is only willing to stay with her father and brother at her *Naihar* and the petitioner will take her responsibility towards maintenance.

The learned counsel for the informant submits that because of security concern she is not willing to go there. The petitioner was granted provisional bail vide order dated 16.05.2017 for two months and thereafter he has approached the victim lady through her counsel and both were present yesterday in course of hearing.

The petitioner, in presence of the learned counsel for the parties, offers to make a fixed deposit of Rs. 5,00,000/-(Rupees Five Lacs only) in the joint name of the victim lady and her brother namely, Santosh Kumar in a nationalized bank at Bikramganj within a period of 1½ month from today. He further submits that the victim lady shall be getting an interest at least Rs. 2500/- per month from such fixed deposit and, at the same time, the amount will also be a security for her future purposes. In presence of his learned counsel he has submitted that he has other responsibilities also towards his family and there is no other income save and except the agricultural income. Presently, this offer is being made, subject to the remedy which the victim lady may have for getting her maintenance, in accordance with law. This being the offer, learned counsel for the informant/victim



lady in presence of Sri Santosh Kumar accepts the offer. However the learned counsel submits that the petitioner should undertake to take care of the victim lady in case of medical necessities. This submission of learned counsel for the informant is acceptable to the petitioner.

Learned counsel for the State is present, however, in view of the developments, he has not offered any resistance.

In the facts and circumstances stated hereinabove, considering that it is a marriage of the year 1983 and the petitioner being a farmer has come out with a bona fide offer to take care of the maintenance of his wife namely, Sunaina Devi, the provisional bail granted to the petitioner vide order dated 15.06.2017 is hereby confirmed.

In view of this undertaking, the petitioner shall deposit the aforesaid amount within a period of 1½ month in the joint name, as stated above, in a nationalized bank at Bikramganj, Rohtas and shall handover the fixed deposit certificate to the victim lady who is his wife, as agreed between the parties, the parties shall appear for opening of the bank account positively on 15th September, 2017, when the petitioner shall come ready to do the needful.

Any default or breach of promise on the part of the petitioner shall lead to cancellation of his bail bond. The privilege of bail is subject to the conditions under Section 437(3) of the Code of Criminal Procedure.

With the above observation and direction, this application stands disposed of.”

“There is a typographical error at the first page of the order no. 5, where the date of order has been



wrongly typed as 02.08.2017 in place of 03.08.2017.

Let the order no. 5 be read as order dated 03.08.2017.”

Learned counsel for both the parties are present.

Since the opposite party no. 2 had died during pendency of the application the victim lady has herself appearing through Advocate Mr. Bindhyachal Singh. Learned counsel for both the parties jointly submit that in the given facts and circumstances of the case now continuation of the criminal proceeding in the court below would only be an abuse of the process of the court. They submit that in the interest of justice and to save the petitioner from any harassment despite settlement between the parties it would only be just and proper to quash the order taking cognizance and the entire proceeding.

This court is of the considered opinion that in the nature of the present case and the settlement which has already been arrived at between the parties, the further continuation of the criminal proceeding in the court below would only be an abuse of the process of the court, thus, this court in exercise of power under Section 482 of the



Code of Criminal Procedure hereby sets aside the order taking cognizance dated 03.05.2013 passed by learned S.D.J.M., Bikramganj, Rohtas in connection with Bikramganj P.S. Case No. 30/2009 (Trial No. 1845/2017).

This application is allowed.

(Rajeev Ranjan Prasad, J)

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