

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68534 of 2018

Arising Out of PS. Case No.-21 Year-2014 Thana- THAKRAHA District- West Champaran

Radheshyam Kushwaha @ Motichand Kushwaha @ Radheshyam @
Motichandra Kushwaha, S/o Indrasan Kushwaha, R/o Village Chak
Tola,Raypatti,P.S. Bishanpura,Distt.-Kushinagar,Uttar Pradesh

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kalawati Devi W/o Radheshyam Kushwaha @ Motichand Kushwaha,D/o
Panna Lal Kushwaha R/o Village-Sisawania,P.S. Thakraha,Distt.-West
Chamaparan

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Radha Mohan Pathak
For the Opposite Party/s : Mr.Sri Rajendra Singh Shastriji

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 08-05-2019 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

The petitioner, being the husband of the informant, is languishing in custody since 14.09.2018 in a case registered for the offences punishable under Sections 498A and 494/34of the Indian Penal Code.

The prosecution case as per the written report of Kalawati Devi submitted to the Station House Officer of Thakraha Police Station is to the effect that the marriage between the informant and the petitioner was performed 2 ½ yeas prior to the lodging of the present case, however, the date of marriage has not been mentioned in the First Information



Report, but subsequent to the marriage, there was further demand of Rs. Two lakhs and for non-fulfillment of the same, torture was inflicted upon the informant, leading to registration of the FIR.

It appears that earlier the petitioner preferred Cr. Misc. No. 47018 of 2016 for grant of bail, wherein a statement was made in paragraph 11 that the petitioner has not performed second marriage and is ready for resumption of the conjugal life, when both sides agreed to appear before the learned Court below on 15th of November, 2016, when the petitioner was supposed to take the informant and the child to keep them with full dignity and honour, the petitioner was granted provisional bail for three months vide order dated 26.10.2016. The provisional bail was to be confirmed by the learned Court below in three eventualities (i) on substantial restoration of the matrimonial harmony within a period of one year or (ii) if the informant fails to appear before learned Court below or (iii) if the informant gets reluctant to reconcile the issue.

It appears that in pursuance to the order dated 26.10.2016 the petitioner took the informant to Chandigarh but again torture was inflicted by the petitioner on the informant, leading to registration of case at Chandigarh and ultimately, the



bail bond of the petitioner was cancelled by the learned Court below vide order dated 22.11.2017 and thereafter the petitioner ultimately surrendered on 14.09.2018.

It is submitted by learned counsel for the petitioner that the petitioner has sufficiently been punished for the offence alleged against him and he is ready to appear regularly before the learned Court below during trial.

It is submitted by learned counsel for the informant that petitioner preferred Cr. Misc. No. 21938 of 2018 challenging the order dated 22.11.2017 passed by learned Court below, whereby NBW after cancelling the bail bond was issued and the said application has been dismissed with cost of Rs.10,000/- but the same has not been paid to the informant as directed by a Bench of this Court.

Considering the rival submissions of the parties, accusation levelled and period under custody, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Bagaha, West Champaran in connection with Thakraha P.S. Case No. 21 of 2014.

The bail bond of the petitioner will be accepted by the



learned Court below on deposit of Rs.10,000/- through bank draft in favour of informant-opposite party no. 2 which will be released in favour of the informant-opposite party no. 2.

However, it is made clear that the learned Court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for three consecutive occasions.

(Dinesh Kumar Singh, J)

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