

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73724 of 2018

Arising Out of PS. Case No.-2582 Year-2009 Thana- SARAN COMPLAINT CASE District-
Saran

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1. Umesh Prasad, Son of late Ganga Prasad, Resident of Village – Kondh Bhagwanpur, P.S. - Panapur, District – Saran at Chapra.
2. Mamta Kumari, Daughter of Mahesh Prasad @ Mahesh Singh, Resident of Village – Pachbhinda, P.S. - Taraiya, District – Saran at Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Rita Devi, Wife of Umesh Prasad, Mauza – Kondh Bhagwanpur, P.S. - Panapur, District – Saran at Chapra. D/o Late Sri Ram Prasad, Mauza – Dewari, P.S. - Mathaya, District – Saran at Chapra, resides presently W/o Chulhan Prasad Singh, S/o Durga Prasad Singh, R/o Village – Hathsar, P.S. Gaura, District – Saran at Chapra.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nawal Kishore Singh
For the Opposite Party/s : Mr.Sri Atul Chandra

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 26-03-2019 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioner no. 1 being the husband of the complainant, and petitioner no. 1, being the second wife of petitioner no.1, are apprehending their arrest in a complaint case, wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 494 and 498A of the Indian Penal Code.

The prosecution case, as per the complaint petition filed by the complainant, Rita Devi, is to the effect that the



complainant was married with petitioner no. 1 on 14.06.2007 but after 15 days of the marriage, further dowry demand of Rs.50,000/- was made. The brother of the complainant tried to pacify the issued but the accused persons made assault with Dab causing injury on her palm. On 11.06.2009 the husband of the complainant performed marriage with Mamta Kumari, D/o of Mahesh Prasad, Mauza – Pachbhinda, P.S. - Taraiya, District – Saran.

It is submitted by learned counsel for the petitioners that petitioner no. 1 admits his marriage with the complainant but it is the complainant who deserted petitioner no. 1 and has performed second marriage with one Chholhan Prasad Singh without taking divorce from petitioner no. 1. It is further submitted that the accusation of assault is not being corroborated by any medical opinion. The date of performing second marriage has not been mentioned in the complaint petition. It is further submitted that petitioner no. 2 was not aware about the earlier marriage of petitioner no. 1 and complaint petition does not suggest any specific accusation against petitioner no. 2.

Learned APP submits that the thrust of accusation is against petitioner no. 1.



Considering the rival submissions of the parties, it appears that the notices were issued to the complainant-opposite party no. 2 vide order dated 21.12.2018. The office note dated 21.02.2019 reflects that the notices have been received by the opposite party no. 2 but till date none has appeared. The matter was adjourned vide order dated 22.02.2019 since none appeared on behalf of opposite party no. 2. Today also none is appearing on behalf of opposite party no. 2.

Considering the nature of accusation and the fact that in spite of valid service of notice, the complainant chose not to appear, let the above named petitioners be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Saran at Chapra in connection with Complaint Case No. 2582 of 2009, Trial No. 866 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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