

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 79002 of 2019

Arising Out of PS Case No.-266 Year-2018 Thana- MEHASI District- East Champaran

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Virendra Ram @ Virendra Kumar, aged about 20 years (male), Son of Kodai Ram, Resident of Village - Ujhilpur, P.S.- Mehshi, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sangeeta Kumari, Daughter of Jai Kisun Ram, resident of village-Ujhilpur, PS Mehshi, District- East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Madanjeet Kumar, Advocate
For the State	:	Mr. Lalan Kumar, APP
For the Opposite Party No. 2	:	Mr. Binay Kant Mani Tripathi, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 14-12-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Madanjeet Kumar, learned counsel for the petitioner; Mr. Lalan Kumar, learned Additional Public Prosecutor



(hereinafter referred to as the 'APP') for the State and Mr. Binay Kant Mani Tripathi, learned counsel for the opposite party no. 2.

3. The petitioner apprehends arrest in connection with Mehasi PS Case No. 266 of 2018 dated 02.08.2018, instituted under Sections 323, 341, 354A, 498A/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

4. The allegation against the petitioner, who was married to the informant on 17.06.2017, is that soon thereafter, his mother started torturing the informant and even the brother of her husband started teasing her and her food was also stopped for 2-3 days and on a day when the mother-in-law and sister-in-law had gone to participate in a neighbor's marriage ceremony, the father-in-law had entered the house and had touched her body and on protest had caught hold of her hair and pulled her down and when she narrated the incident to the mother-in-law and sister-in-law, they had also assaulted her. It has been alleged that the informant had then come to her parents' house and after 2-3 months, when the father of the informant asked the father-in-law of the informant for *Bidagari*, he had told him that it would not be done without dowry. It was further stated that the matter was taken before the *Sarpanch* after 10 days and the father-in-law of the informant had demanded Rs. 51,000/- as dowry before performing



Bidagari but the *Sarpanch* had decided the amount to be Rs. 21,000/-. It was further stated that in terms thereof, though the father has deposited 8,000/- with the *Sarpanch* but the same was returned after two months as the full amount of Rs. 21,000/- was not deposited as the father of the informant was a poor labourer maintaining a family of seven persons, and thus, was not able to pay such amount as dowry and being left with no option, the case was filed.

5. Learned counsel for the petitioner submitted that the allegation is false and the petitioner is innocent and it is the informant who is not willing to live and wants to extort money by lodging the present case. Learned counsel submitted that his family members have been granted anticipatory bail by a co-ordinate Bench on 24.06.2019 in Cr. Misc. No. 10076 of 2019.

6. Learned APP submitted that the fact of dowry stands confirmed from the fact that the *Sarpanch* had to intervene, who fixed an amount of Rs. 21,000/- to be paid by the father of the informant, out of which 8,000/- also was deposited, itself falsifies the stand on behalf of the petitioner that the present case has been filed to extort money, for had the informant wanted money, her father would not have deposited Rs. 8,000/- with the *Sarpanch*. Learned counsel submitted that this single fact is enough to prove



that the petitioner and his family members were demanding dowry.

7. Learned counsel for the opposite party no. 2 submitted that there was demand of dowry and part payment was also made but because of the poor financial condition of the father of the informant, the full amount could not be given. It was submitted that the petitioner is the husband and therefore, it is his primary responsibility to ensure that the opposite party no. 2 lives in the matrimonial home.

8. After learned counsel had concluded their arguments, the Court put a query to learned counsel for the petitioner that why a categorical statement was made in the application that he is ready to keep the informant with him and when the Court on his submission had also directed for the exercise of the petitioner going to the house of the petitioner's parents and bring her back to the matrimonial home, learned counsel submitted that he had taken the stand on specific instructions on behalf of the petitioner and that he was also not aware as to why, despite him having communicated to him that he was required to go to the house of the informant and bring her to the matrimonial home, the same was not complied with.



9. At this juncture it would be relevant to notice the order passed on 09.11.2020, which reads as under:

“3. The petitioner and opposite party no. 2 are husband and wife.

4. On the last two occasions, as the petitioner had taken a categorical stand that he is ready to keep the opposite party no. 2 with him in the matrimonial home as his wife, the Court, by way of indulgence, had granted opportunity to the petitioner to bring the opposite party no. 2 to the matrimonial home.

5. Pursuant thereto, affidavits have been filed both on behalf of the petitioner as well as the opposite party no. 2. In the affidavit of the petitioner, the stand is that though he had gone to meet the opposite party no. 2, but she and her family members had refused to send her whereas in the affidavit filed on behalf of opposite party no. 2, the stand is that no attempt was made by the petitioner in this regard.

6. The Court, under such circumstances, got the feeling that both the parties were trying to take the proceedings casually and not coming with correct facts which also reflected that there was no serious desire or will to reconcile the matter.

7. At this stage, learned counsel for the petitioner and learned counsel for the opposite party no. 2 submitted that byway of one last indulgence, the Court may fix a particular date when the petitioner would go to the house of the opposite party no. 2 and bring her. It was submitted that both the parties had married out of their own choice and they live in the same village. It was submitted that to facilitate matters, the Court may give a direction to the SHO of the local police station to depute a senior police officer to be present during the entire exercise so that the parties do not blame each other falsely, if the exercise is not successful.

8. Learned APP submitted that the Court may give one last opportunity to the parties.



9. Having regard to the aforesaid, the Court called upon learned counsel to suggest the date on which the petitioner would go to the house of the opposite party no. 2 to bring her to the matrimonial home.

10. Accordingly, as has jointly been conveyed by learned counsel for the parties, let the petitioner go to the house of the opposite party no. 2 on 2nd December, 2020. Before that, he would go to the local police station, with a web copy of this order, where the SHO would depute a senior police officer, not below the rank of Assistant Sub Inspector of Police, who shall accompany the petitioner to the house of the opposite party no. 2. From there, the opposite party no. 2 shall accompany the petitioner to the matrimonial home. The opposite party no. 2 and her family members shall extend due courtesy to the petitioner and other members of his family who go to the house of the opposite party no. 2 to bring her to the matrimonial home. The petitioner along with the opposite party no. 2 shall be brought to the matrimonial home along with the police officer after which he would return to his other duties.

11. It shall be the responsibility of the petitioner to ensure that the opposite party no. 2 is kept in the matrimonial home with full dignity, honour and security and all her needs are taken care of. She shall also be free to talk to and meet any person she desires without any let or hindrance by the petitioner or his family members.

12. As jointly prayed for, the matter be listed on 14th December, 2020, among the top five cases, when affidavit shall be filed, both on behalf of the petitioner as well as opposite party no. 2, with regard to the exercise having been completed and also with regard to the status of the relationship.”

10. In the aforesaid background, taking an overall view in the matter, the Court finds that the stand in the petition and the conduct of the petitioner before the Court as well as the



submissions made on his behalf by learned counsel have turned out to be totally misleading. Thus, the Court is not inclined to grant pre-arrest bail to the petitioner.

11. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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