

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78068 of 2019

Arising Out of PS Case No.-153 Year-2019 Thana- FORBESGANJ District- Araria

Md. Shamsad @ Mir Samsad, aged about 30 years, Son of Late Mir Kashim, Resident of Village- Milki, Meer Tola, Ward No.1, P.S.- Forbesganj (Simraha), District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bibi Afsana Khatoon, Female, age 28 years, Wife of Md. Shamshad @ Mir Samsad, resident of Village- Milki Meer Tola, Ward No. 1, PS- Forbesganj (Simraha), District- Araria.
At present-Daughter of Edrish Mian, resident of Village- Pothiya, Ward No. 6, PS- Simraha, District- Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Prasad Singh, Advocate
For the State	:	Mr. Pramod Kumar Pandey, APP
For the Informant	:	Mr. Md. Naushaduzzoha, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 06-10-2020

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

2. Heard Mr. Anil Prasad Singh, learned counsel for the petitioner; Mr. Pramod Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Md. Naushaduzzoha, learned counsel for the opposite party no. 2.



3. The petitioner apprehends arrest in connection with Forbesganj (Simraha) PS Case No. 153 of 2019 dated 15.02.2019, instituted under Sections 341, 323, 354B, 498A, 379, 504/34 of the Indian Penal Code.

4. The allegation against the petitioner, *inter alia*, is of torture, assault and also of throwing the informant out of the matrimonial home after taking away the personal jewellery worth Rs. 45,000/- given to the informant by her father.

5. Learned counsel for the petitioner submitted that the allegation of being in a drunken state and assault is false, especially when there is prohibition in the State of Bihar. It was submitted that the informant is working in a factory. It was submitted that the informant had earlier filed Complaint Case No. 2633C of 2013, against the petitioner and on the basis of compromise, the petitioner had got bail and the informant had also returned to the matrimonial home but again she has herself left the matrimonial home.

6. Learned APP submitted that the petitioner has tortured and thrown out the informant, who is his wife, from the matrimonial house.

7. Learned counsel for the informant submitted that there are two sons and two daughters born out of the wedlock to



the petitioner and all of them have been left without any support. It was submitted that initially also on assurance given by the petitioner that he would keep them well, she had compromised the case but again the petitioner had started his old activity of torture and assault and most importantly, he had married another woman. It was submitted that the informant is not being supported by the petitioner in any way despite it being the responsibility of the petitioner to support the wife and the children. Learned counsel submitted that the petitioner has been abusing and torturing her and also has kept back the personal jewellery given to her by her father at the time of marriage worth Rs. 45,000/-. Learned counsel submitted that the allegations are very natural and there is nothing to indicate that they are cosmetic or exaggeration or imaginary. It was submitted that even otherwise, a woman having four children would not take the extreme step of filing a case against the husband which effectively shuts out all doors and in the present case also in Mediation, the informant was ready either for a one time settlement or till the time a decision was not reached in the maintenance case filed by the informant for grant of reasonable amount to take care of herself and her four children, who at present are not getting a single rupee from the petitioner.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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