

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78403 of 2019

Arising Out of Complaint Case No.-38 Year-2018 Thana- MUZZFARPUR COMPLAINT
CASE District- Muzaffarpur

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Chhotu Kumar, aged about 24 years, Male, Son of Dhanraj Das, Resident of
Village - Kudhani, P.S. - Kudhani, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rinku Kumari, Wife of Chhotu Kumar, Daughter of Dasrath Das, Resident
of Village+ PO Kudhani, PS Kudhani, District- Muzaffarpur.
At present Resident of Village+ PO Harnahi, PS Baruraj, District-
Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajive Ranjan Singh, Advocate
For the State	:	Mr. Yogendra Kumar Singh, APP
For the Opposite Party No. 2	:	Mr. Raju Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 07-10-2020

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

2. Heard Mr. Rajive Ranjan Singh, learned counsel for
the petitioner; Mr. Yogendra Kumar Singh, learned Additional
Public Prosecutor (hereinafter referred to as the 'APP') for the
State and Mr. Raju Kumar, learned counsel for the opposite party
no. 2.

3. The petitioner apprehends arrest in connection with
Complaint Case No. 38 of 2018 dated 09.01.2018, instituted under



Sections 323, 504, 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

4. The allegation against the petitioner is demand of dowry and torture.

5. Learned counsel for the petitioner submitted that he is the husband of the opposite party no. 2 and the complaint case has been filed with *mala fide* intention. It was submitted that the opposite party no. 2 has herself left the matrimonial home. It was further submitted that the petitioner is ready to keep the opposite party no. 2 with full dignity and honour. With regard to filing of Divorce Case No. 332 of 2017, learned counsel submitted that in the affidavit also as well as before the Court, the stand is that it was filed because of lack of knowledge by the petitioner and that he is always ready to keep his wife. Learned counsel submitted that it is the opposite party no. 2, who does not want to live with him and further that the allegations are general and omnibus in nature.

6. Learned APP submitted that the petitioner has not shown his desire to keep the wife with him. It was further submitted that the allegations against the petitioner are specific.

7. Learned counsel for the opposite party no. 2 submitted that the petitioner has misled the Court and has got



interim protection without there being any intention to keep the wife. It was submitted that the Court on 27.08.2020 had categorically recorded the following at paragraphs no. 6 and 8:

“6. Learned counsel for the petitioner submitted that he is ready to keep the opposite party no. 2 in the matrimonial home with full dignity, honour and security. On a query of the Court to learned counsel for the petitioner as to how he is able to take such stand when before the Court below the petitioner had appeared and the Court had recorded a finding that he had flatly refused to keep his wife despite the wife being ready to live with him if kept in proper way, he responded by taking a categorical stand that, now, he has realized the position and is ready to keep the wife (opposite party no. 2) with full dignity, honour and security.

8. Having regard to the aforesaid, let the petitioner file a personal affidavit in the present case, through e-filing, giving an undertaking that he shall keep the opposite party no. 2 with him, wherever he lives, with full dignity, honour and security. He shall also undertake that the opposite party no. 2 shall be free to meet anyone she chooses and she can also go wherever she likes and further, neither the petitioner nor his family members shall interfere in her personal life and shall not torture her in any way, either mentally or physically. He shall also undertake that he shall take care of all her daily needs and also provide money for her personal expenses. Such affidavit shall be filed within three weeks.”

8. Learned counsel submitted that even on the last occasion i.e., 17.09.2020, the Court had recorded the following:

“3. Despite the Court granting time on 27.08.2020 to the petitioner to file affidavit in terms of what has been recorded at paragraph no. 8 of the order, no such affidavit has been filed.



4. *Learned counsel for the petitioner submitted that he has not been able to come for filing the affidavit. The Court does not find any justifiable or valid reason for the petitioner for not doing so. In the background of the fact that the petitioner has been granted interim protection on 02.12.2019 and also what has been recorded in paragraph no. 6 of the order dated 27.08.2020, the conduct of the petitioner indicates that he is only trying to play with the Court and seek time once interim protection has been given to him.*

5. *In view thereof, the Court deemed it appropriate to recall the interim protection granted to the petitioner under order 02.12.2019.*

6. *At this juncture, learned counsel for the petitioner prayed for one last indulgence for filing such affidavit.*

7. *In view thereof, by way of extraordinary indulgence, the matter be listed on 7th October, 2020, among the top five cases.”*

9. Learned counsel submitted that the wife is always ready to go but it is the petitioner who is not wanting to take her and has been repeatedly lying before this Court that he is ready to keep her though the Court below has also recorded that the wife was ready to go and live with the husband but the husband was not ready to take her.

10. When the Court called upon learned counsel for the petitioner to respond, he was unable to explain such conduct of the petitioner, especially in view of what has been recorded in the orders dated 27.08.2020 and 17.09.2020, as quoted above.

11. Thus, the Court is convinced that the conduct of the petitioner lacks *bona fide* and that he has been shown indulgence



on a totally false pretext that he was ready to keep the wife and also making such statement on oath in the present application.

12. Having considered the matter in totality, the Court is not inclined to grant pre-arrest bail to the petitioner.

13. Accordingly, the application stands dismissed.

14. The interim protection granted to the petitioner on 02.12.2019, stands vacated.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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