

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 78763 of 2019

Arising Out Complaint Case No.-53 Year-2017 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Md. Nazrullah (Male), aged about 40 years, son of late Haji Nizamuddin,
Resident of B-105, Plot No. 406, V.I.P. Apartment, Shahinbagh Jamia Nagar,
Police Station-Okhla, New Delhi. At present Belam Bazar, near Rahmani
Foundation B.Ed. College, Police Station- Kasim Bazar, District-Munger

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Rafat Jahan, wife of Md. Nazrullah, daughter of Md. Kalimuddin
Ansari, Resident of Mohalla-Shahjangi, Police Station-Habibpur, District-
Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the State : Mr. Ashok Kumar, APP
For the O.P. No. 2 : Mr. Jitendra Narain Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-11-2020

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

2. Heard Mr. Md. Najmul Hodda, learned counsel for
the petitioner; Mr. Ashok Kumar, learned Additional Public
Prosecutor (hereinafter referred to as the 'APP') for the State
and Mr. Jitendra Narain Sinha, learned counsel for the opposite



party no. 2.

3. The petitioner, who is the husband of the opposite party no. 2, apprehends arrest in connection with Complaint Case 53 of 2017 dated 13.11.2019, instituted under Sections 323/498A of the Indian Penal Code and 4 of the Dowry Prohibition Act, 1961.

4. The allegation against the petitioner is that despite marrying the opposite party no. 2 in a costly hotel at Patna, the opposite party no. 2 and her family spending about Rupees Ten Lakhs, when she went to Delhi, Rupees Fifteen Lakhs was demanded by the petitioner from the brother of the opposite party no. 2 for purchasing a separate flat at Delhi and she was sent back to the matrimonial home to get the money, failing which she would not be taken back in the matrimonial home.

5. Learned counsel for the petitioner submitted that the allegation is false and the opposite party no. 2 herself did not want to live with the petitioner. It was submitted that the petitioner had several times approached the opposite party no. 2 for returning to the matrimonial home but she had denied.

6. At this juncture, when the Court drew the attention of learned counsel to the previous orders of the Court where it was indicated that the petitioner was ready for reconciliation and



settlement and today the Court being informed that the petitioner has flatly denied to take back the opposite party no. 2, who is his wife, when the opposite party no. 2 is ready to go and live with him, learned counsel for the petitioner submitted that he is now not ready to take back the opposite party no. 2.

7. Learned APP submitted that the petitioner taking such a stand despite much opportunity being given and there being no other grievance against the opposite party no. 2 and only a bald allegation that she herself does not want to reside in the matrimonial home and today when the opposite party no. 2 has taken a categorical stand that she is ready, then it is the petitioner who is refusing to take her clearly indicates that the allegation of demand of dowry is correct.

8. Learned counsel for the opposite party no. 2 submitted that as per the orders of the Court, when the parties were required to come together for mediation, the husband was not allowed to talk to the opposite party no. 2 and he had gone with his maternal uncle and an advocate and was just keeping quiet but he had refused to keep her and, thus, the reconciliation failed and now the stand is being taken that he is ready for one-time-settlement. It was submitted that it clearly shows *mala fide* on the part of the petitioner. Learned counsel further submitted



that the opposite party no. 2 is living with her father, who is 84 years of age and, thus, she has an uncertain future and there being no specific allegation or complaint against the opposite party no. 2 by the petitioner, except that she was not ready to go and live in the matrimonial home, when she has taken a categorical stand that she is ready to go and live with him, still there is refusal on the part of the petitioner to take her back, would clearly indicate the fault on the part of the petitioner that he is only interested in taking money from the family of the opposite party no. 2. It was further submitted that the petitioner is earning good amount and has also landed properties in Delhi and Hyderabad.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and taking an overall view in the matter as well as the fact that the Court had granted him indulgence in trying to come for settlement, especially the fact that nothing has come from the side of the petitioner with regard to any fault on the part of the opposite party no. 2 which may indicate that she is not fit to be taken back in the matrimonial home, the insistence of the petitioner that he would not take her back in absence of any such allegation or fault indicated, in the tentative view of the



Court, points out to the fact that the petitioner’s side did demand dowry and because the same is not being met, she was turned out of the matrimonial home.

10. For reasons aforesaid, the Court is not inclined to grant pre-arrest bail to the petitioner.

11. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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