

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78618 of 2019

Arising Out of Case No.-239 Year-2016 Thana- COMPLAINT CASE District- Samastipur

=====

Pappu Ram, aged about 30 years, Gender-Male, son of Ghuran Ram, Resident of Village Rahua Bhajanpatti, Police Station-Rosera, District Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mala Devi, aged about 28 years, Gender-Female, wife of Pappu Ram, Daughter of Sri Kari Ram, resident of Village Rahua Bhajanpatti, Police Station-Rosera, District Samastipur. Presently residing at Village Mahathi ToleChurapa, Police Station-Vibhutipur, District Samastipur

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Gaurav Kumar, Advocate
For the State	:	Mr. Syed Ehteshamuddin, APP
For the O.P. No. 2	:	Mr. Dilip Kumar Roy, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 10-12-2020

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

2. Heard Mr. Gaurav Kumar, learned counsel for the petitioner; Mr. Syed Ehteshammudin, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Dilip Kumar Roy, learned counsel for the opposite party no. 2.

3. The petitioner apprehends arrest in connection with Trial No. 808 of 2018 arising out of Complaint Case No. 239 of 2016 dated 13.04.2016, instituted under Sections



498A/341/448/504 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

4. The opposite party no. 2, who is the wife of the petitioner, in her complaint has alleged that she was assaulted and harassed by the petitioner and his relatives who demanded rupee one lakh dowry from her father and when she indicated that he was unable to pay such amount, they had abused and beaten her.

5. Learned counsel for the petitioner submitted that the petitioner is ready to keep the opposite party no. 2 but she is not ready to live with him. Learned counsel further submitted that in the complaint she herself has stated that the petitioner has filed a petition for divorce and when she came to know about it then only this case has been filed, which shows that the petitioner has been falsely implicated and the allegation is false. Learned counsel submitted that the complaint has been filed in the year 2016, after seven years of marriage. It was further submitted that learned Additional District and Sessions Judge 6th, Samastipur in ABP No. 2637 of 2019 in order dated 25.10.2019 by which the prayer for pre-arrest bail of the petitioner has been rejected, has observed that the complainant does not want to reside with the petitioner.



6. Learned APP submitted that the petitioner having filed a divorce case itself shows that he is at fault and wants to end the relationship for which he had created an atmosphere of fear and he along with his family members had also ensured that the opposite party no. 2 went back to her parents' house where she is living.

7. Learned counsel for the opposite party no. 2 submitted that though he has filed a counter, but due to personal reasons the same is not in the form of an affidavit. However, he submitted that he would be uploading the formal counter affidavit on the e-portal of the High Court latest by tomorrow. He submitted that the allegations made in the complaint petition are true. It was submitted that the opposite party no. 2 who has a minor son from the petitioner, due to assault and torture also had miscarriage and since then she was living in her parents' home in the hope that the petitioner and his family members would realize their mistake and take her back and, thus, had not made any complaint earlier as she was helpless and a bleak future stared at her face. Learned counsel submitted that the conduct of the opposite party no. 2 in filing the compliant after being aware of the divorce case is very natural as only after the petitioner had taken the first step towards dissolution of marriage, the



opposite party no. 2 realised that all doors were shut and then only she also came before the law seeking justice and disclosing the misdeeds of the petitioner and his family members. Learned counsel further submitted that even the observation in the order of the Court below is being misinterpreted by learned counsel for the petitioner inasmuch as, that her stand of not going to the matrimonial home is in context with the fact that the petitioner had already filed a divorce case, which statement has been recorded in the same sentence in which the learned Court below has recorded that she does not want to go to the matrimonial home. Thus, learned counsel submitted that the said stand was also very natural for any woman in that position to take. Learned counsel referred to the counter filed on behalf of the opposite party no. 2 in which he has categorically stated that the petitioner has married two other ladies, despite the marriage with the opposite party no. 2 still sustaining and under such circumstances, the petitioner himself has shut all doors of any reconciliation. Learned counsel submitted that the conduct of the petitioner is also not fair and *bone fide* for the reason that in the maintenance case filed by the opposite party no. 2, by order dated 13.11.2019, the Court concerned had directed for monthly payment of Rs. 3,000/- to the opposite party no. 2 and Rs.



2,000/- for the minor child and the petitioner has paid in terms of the order only for two months and after that has not given any money and the opposite party no. 2 and her minor son and she is undergoing serious financial crisis making it difficult for her to sustain herself and her minor son, especially in this COVID-19 period. It was submitted that the petitioner having disobeyed the order also disentitles him to any indulgence as having violated an order of the Court, he cannot come before this Court and pray for indulgence being shown to him, as conduct of the parties is of vital consideration in discretionary matters, especially relating to grant of bail.

8. The Court would pause here to indicate that learned counsel for the petitioner when called upon to respond as to why he had not complied with the order of the Court below with regard to payment of maintenance and how can he take a stand that he was ready to keep the opposite party no. 2 when he had already remarried two other women, besides the opposite party no. 2, who admittedly is the first wife and divorce has still not been granted, learned counsel for the petitioner had no answer.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the submissions of learned APP and



learned counsel for the opposite party no. 2. Thus, taking an overall view in the matter, the Court is not inclined to grant pre-arrest bail to the petitioner.

10. Accordingly, the application stands dismissed.

11. The interim protection given to the petitioner earlier under order dated 30.09.2020 stands withdrawn.

12. Learned APP shall communicate the order to the Superintendent of Police, Samastipur.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

