

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 28072 of 2020

Arising Out of CR Case No.-409 Year-2019 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Bablu Rai, aged about 36 years, (Male) Son of Ram Sundar Rai, Resident of
Village- Gardhiya, Police Station- Pandaul, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rina Devi, aged about 31 years, Female, Wife of Bablu Rai and Daughter of
Sri Ganesh Rai, Resident of Village- Najra, Police Station- Manigachhi,
District- Darbhanga.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Jha, Advocate
For the State	:	Mr. Md. Fahimuddin, APP
For the Opposite Party no. 2	:	Mr. Ratanakar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 22-03-2021

Heard Mr. Shailendra Kumar Jha, learned counsel for
the petitioner; Mr. Md. Fahimuddin, learned Additional Public
Prosecutor (hereinafter referred to as the 'APP') for the State and
Mr. Ratanakar Jha, learned counsel for the opposite party no. 2

2. The petitioner apprehends arrest in connection with
CR Case No. 409 of 2019 dated 24.05.2019, instituted under
Section 498A of the Indian Penal Code.

3. The allegation against the petitioner in the case filed
by opposite party no. 2, who is his wife, is of demand of dowry of
Rs. 1,00,000/- and because of non-fulfillment, leading to assault



after snatching her belongings and ousting her along with her minor son from the matrimonial home.

4. Learned counsel for the petitioner submitted that she has now been taken to the matrimonial home and is living there with their son and, thus, the grievance has been redressed and the Court may grant indulgence.

5. Learned counsel for the opposite party no. 2 submitted that the petitioner has only performed his formality as even after taking her to the matrimonial home, he has left them without any support and has gone to Delhi and even in the past, he very occasionally comes after very long gaps and, thus, for all practical purposes, the purpose of marriage has failed as the opposite party no. 2 being young and having legitimate expectation as a wife to live with the husband has been denied such basic right inherent in her in the position of a wife. It was submitted that the petitioner is totally not ready to keep her with him in the matrimonial home and even has not assured that he would be visiting her at regular intervals so that the family lives together. It was submitted that this further raises serious doubt in the mind of the opposite party no. 2 that the intention of the petitioner besides not being clear, there may be more than meets the eye.



6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, one thing is clear. The institution of marriage is sacrosanct and the very purpose is that the couple lives together and cohabits. This also is a facet of basic human right. Denial of such right to the wife by the petitioner for long periods, in the considered opinion of the Court, definitely amounts to cruelty. On repeated query of the Court as to whether the petitioner was ready to keep the whole family with him or in the alternative visit her for sufficient duration that too at shorter intervals, learned counsel for the petitioner was not in a position to give any assurance and only said that as the case may be, he may come after 2, 3, 6 etc. months. Thus, there is no doubt in the mind of the Court that the petitioner is totally non-committal and vague. This itself indicates that the opposite party no. 2 being the wife of the petitioner is living in a state of mental stress as she is unaware as to when her husband/the father of her child, would visit her next and such presence is required both for the wife as well as for the minor child who have a right to live with the husband/father and enjoy family life.

7. At this juncture, when the Court again called upon learned counsel for the petitioner to suggest as to what practical



way out he was ready, nothing came forward and only the same argument was repeated that he would keep visiting them.

8. 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, especially in light of the discussions made hereinabove, the Court is not inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, the application stands dismissed.

10. Interim protection granted to the petitioner by order dated 22.01.2021, stands recalled.

(Ahsanuddin Amanullah, J.)

P. Kumar

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