

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 28047 of 2020

Arising Out of Complaint Case No.-81 C Year-2019 Thana- EAST CHAMPARAN
COMPLAINT District- East Champaran

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Sehdi Mian @ Sehdi Alam, aged about 50 years Male, Son of Manzoor Mian,
Resident of Village-Belwatia, PS-Sugauli, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sukhi Khatoon, Wife of Sehdi Mian @ Sehdi Alam, Daughter of Israil Mian,
Resident of Village-Belwatia, PS-Sugauli, District-Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shakil Ahmad Khan, Advocate
For the State : Mr. Suresh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 08-02-2021

Heard Mr. Shakil Ahmad Khan, learned counsel for the
petitioner and Suresh Prasad Singh, learned Additional Public
Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with
Complaint Case No. C-81 of 2019 dated 10.01.2019, instituted
under Sections 498 (A) of the Indian Penal Code and Section 3/4
of the Dowry Prohibition Act.

3. The allegation against the petitioner is that he had
demanded Rs. 40,000/- and one motorcycle as dowry and due to
non fulfilment, the opposite party no. 2 (his wife), was tortured
and even after she was blessed with a son, the accused had ousted



her from the home snatching her belongings in the year 2009 for which a complaint was filed which was disposed off on the basis of compromise and the opposite party no. 2 had gone to live with her in-laws on 25.11.2017, but again the accused persons ousted her from the matrimonial home snatching all her belongings resulting in institution of the present case.

4. Learned counsel for the petitioner submitted that the allegation is false. It was submitted that at the time of marriage the petitioner was healthy but in an accident, he had lost one hand and now he is not in a condition to fully earn his livelihood. It was submitted that the petitioner has filed a divorce case which was dismissed. It was submitted that even the case filed for maintenance by the opposite party no. 2 has been dismissed. Learned counsel for the petitioner submitted that he is not in a position to keep the opposite party no. 2 with him.

5. Learned APP submitted that the fact that the opposite party no. 2 has been ousted despite having given birth to a son clearly indicates that the petitioner is at fault. It was further submitted that the stand taken by the petitioner that he is not in a position to keep his wife is a further proof that the fault is on his part. Learned counsel submitted that if at all the petitioner is handicapped then he should have been more eager to get his wife



back so that there was some support to him, but taking the stand that he cannot take his wife back is itself an indication that the allegations are true. Learned APP further submitted that if the petitioner has clean intention then upon the wife having gone away, he was required to file a petition for restitution of conjugal rights to bring her back and not to file a divorce petition to finally end the relationship.

6. 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.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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