

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 25343 of 2020

Arising Out of PS Case No.-12 Year-2020 Thana- RASOOLPUR District- Saran

Purushottam Kumar Pandey, Male aged about 31 years, Son of Vidya Sagar Pandey, Resident of Village-Pandey Chapra, PS-Rasoolpur, District-Saran, Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kiran wife of Purushottam Kumar Pandey, Resident of Village-Pandey Chapra, P.S.-Rasoolpur, District-Saran, Chapra.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Upadhyay, Advocate
For the State	:	Mr. Shailendra Kumar Singh, APP
For the Opposite Party No. 2	:	Ms. Abhanjali, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 22-01-2021

Heard Mr. Dhananjay Kumar Upadhyay, learned counsel for the petitioner; Mr. Shailendra Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Ms. Abhanjali, learned counsel for the opposite party no. 2.

2. On 21.12.2020, after detailed hearing, the Court had recorded that learned counsel for the opposite party no. 2 had submitted that one opportunity be given to her to ascertain the factual background and the possibility of there being any chance



of settlement between the parties and, thus, the Court had also tried to facilitate such an exercise.

3. Pursuant to that, a supplementary affidavit has been filed on behalf of the petitioner. However, no affidavit has been filed on behalf of the opposite party no. 2.

4. The petitioner apprehends arrest in connection with Rasoolpur PS Case No. 12 of 2020 dated 28.01.2020, instituted under Sections 498A and 506/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

5. The allegation against the petitioner, who is the husband of opposite party no. 2 is of mental and physical torture and demand of dowry and also of trying to induce her to commit suicide.

6. Learned counsel for the petitioner submitted that right from the beginning, the attitude of the opposite party no. 2 has not been conducive to a smooth matrimonial relationship. It was submitted that the opposite party no. 2 wanted the petitioner to leave his parents and live with her but because the petitioner was supporting and taking care of his old parents, he did not agree to this due to which she started creating problems. It was submitted that on 19.09.2019, when the petitioner was working at Delhi, he submitted an Informatory Petition before the local police with



regard to the opposite party no. 2 torturing him for almost 10 months that she was not satisfied with the marriage and forcing him to give divorce and also threatening him and his family members with dire consequences. Learned counsel submitted that after losing all hope of reconciliation with the opposite party no. 2, he was forced to file Divorce Case No. 199 of 2019 on 25.09.2019, before the Principal Judge, Family Court, Saran at Chapra. It was submitted that the opposite party no. 2 had moved the Hon'ble Supreme Court for transfer of such petition to Delhi and when the matter was sent for Mediation by the Hon'ble Supreme Court, the effort failed and ultimately, the divorce suit has been transferred to the Family Court at Dwarika in Delhi. Learned counsel submitted that the conduct of the opposite party no. 2 would be clear from the fact that not only does she threatens and abuses the petitioner and his family members, but has also sent threatening and abusive threats through WhatsApp to his learned counsel, who conducts his case in the Court below. In this regard, he drew the attention of the Court to Annexure-2 series, which includes copies of such messages which disclose abusive language and also threat by the opposite party no. 2 to the learned counsel for the petitioner in the Court below. Learned counsel submitted that on 21.12.2020 also, he had brought to the notice of



the Court that the opposite party no. 2 had also obtained his mobile number and had sent threatening and abusive messages to him which has been noted by the Court in its order dated 21.12.2020. Learned counsel submitted that though the opposite party no. 2 claims to have come to the house of the petitioner on 24.12.2020, but this was despite having being fully aware that nobody was available in the house and only the elder sister of the mother of the petitioner was present and along with the police and some local media persons, she had broken open the lock of the room in which her stuff was lying and taken away everything, information of which has been sent by registered post to the Superintendent of Police, Saran and also to the local police station. Learned counsel submitted that while going back, she has written abusive language on the wall of his house, especially with regard to the mother of the petitioner, calling her a thief, which has been brought on record by taking a photograph and is at Annexure 2 of the supplementary affidavit filed by him. Learned counsel submitted that in such background, clearly the conduct and attitude of the opposite party no. 2 discloses that there is hardly any scope for reconciliation and even after the Court granting indulgence to her on the plea of her counsel that they would try for settlement, her conduct after that and continuing



with offensive and abusive language, including threat to the family members of the petitioner, clearly proves that she is at fault and the petitioner and his family members have been falsely implicated to wreak vengeance. It was submitted that the opposite party no. 2 is living and working at Bombay and is levelling false and wild allegations against the petitioner and his family members.

7. Learned APP submitted that the Court had granted indulgence to the opposite party no. 2 by granting an opportunity for taking steps towards settlement but the same appears to have been frittered away by the opposite party no. 2.

8. Learned counsel for the opposite party no. 2 submitted that the petitioner has tried to divert the issue by showing only the conduct of the opposite party no. 2 and not his. It was submitted that even the messages brought on record are only what she has sent but not what was received by her. On a query of the Court as to why such facts have not been brought on record when she has already appeared in the matter and sufficient time was granted and further what right or business the opposite party no. 2 had to communicate with learned counsel for the petitioner in the lower Court and threaten him, as he was not a party and only a counsel performing his duty, learned counsel



could not give any reply. However, she submitted that the opposite party no. 2 had come from Delhi to Chapra but there was nobody there to receive her at the station and only next morning, she had gone with the police to her house and she had only taken back her belongings. At this juncture, when the Court again called upon her to know why she had gone there without ascertaining that the family members were there, as on oath in the supplementary affidavit, it has been stated that all the persons were away from Chapra on some work and only the elder sister of the mother of the petitioner was present, again learned counsel could not give any reply. Learned counsel submitted that whatever may have happened, she is still ready to live with the petitioner.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is of the opinion that a case for grant of pre-arrest bail has been made out.

10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Chapra in Rasoolpur PS Case No. 12 of 2020 subject to the



conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further, (i) one of the bailors shall be a close relative of the petitioner and (ii) the petitioner shall cooperate in the case. Failure to cooperate shall also lead to cancellation of his bail bonds.

11. It goes without saying that the Court has not expressed any opinion with regard to the merits of the matter, which shall be gone into by the trial Court, in accordance with law, without being prejudiced by the present order.

12. Let the main application supported by affidavit be *e* filed by learned counsel for the petitioner, if already not done, latest by day after tomorrow.

13. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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