

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31908 of 2020

Arising Out of PS. Case No.-5 Year-2020 Thana- MAHILA P.S. District- Vaishali

Bipul Kumar, aged about 24 years, Male, son of Pramod Thakur, resident of Village- Chhitrauli, P.S. Maniyari, District – Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumari Anjali Bharty, age 21 years, wife of Bipul Kumar, D/O Bhola Thakur, resident of village - Hasanpur Osti, P.S. Mahua, District - Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the State	:	Ms. Meena Singh, APP
For the OP No. 2	:	Mr. Sunil Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 23-08-2021

The matter has been heard *via* video conferencing.

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

3. The petitioner apprehends arrest in connection with Hajipur Mahila PS Case No. 05 of 2020 dated 06.02.2020, instituted under Sections 341, 323, 498A/34, 504, 506 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

4. The petitioner is the husband of the informant-opposite party no. 2. Earlier, on the stand taken on behalf of the



petitioner, when the matter was heard, on the plea of learned counsel for the parties, the Court had directed that the parties would be present if physical functioning of the Court resumes.

5. On 05.07.2021, learned counsel for the petitioner had reiterated his stand that he is ready to take the opposite party no. 2 with him and keep her at the place where he resides and that he shall ensure her full dignity, honour and security and shall provide for all her needs.

6. On such stand taken by learned counsel for the petitioner, learned counsel for the opposite party no. 2 had submitted that though, in terms of earlier order, the petitioner was to go to the house of the opposite party no. 2 on 13.03.2021 at 11.00 AM to take her to the matrimonial home, but he had not turned up. In view of the said position, the Court had granted one more opportunity to complete the exercise and as per the agreement between the parties, 20th July, 2021, was fixed as the date when the petitioner was to go to the house of the opposite party no. 2 at 11.00 AM and to facilitate the exercise, the Superintendent of Police, Vaishali, was directed to direct the SHO of Mahua PS to depute an officer to accompany the petitioner to the house of the opposite party no. 2.

7. Pursuant to the same, the petitioner had gone to the



house of the opposite party no. 2 and had taken her to the matrimonial home. However, on 22nd July, 2021, the opposite party no. 2 returned back to her parents' house after going to Maniyari PS. As there was conflicting stand taken by learned counsel for the petitioner and learned counsel for the opposite party no. 2, with regard to the sequence of events, the Court had asked learned APP to inform the Superintendent of Police, Vaishali, as well as the SHO, Maniyari PS, to join the proceeding in the second half at 2.15 PM.

8. At 2.15 PM, when the case was again taken up, the Superintendent of Police, Vaishali, as well as the SHOs of Mahua PS and Maniyari PS joined the proceeding.

9. On a query to them, the Superintendent of Police, Vaishali informed that the father of the opposite party no. 2 had called him on 22nd July, 2021, saying that the opposite party no. 2 was facing some difficulty in the matrimonial home and, thus, he had directed the SHO, Mahua PS to get in touch with the Maniyari PS and do the needful. When the Court asked the SHO, Maniyari PS, to state what had happened, he submitted that a Chaukidaar was deputed on 20th July, 2021 itself at the matrimonial home of the opposite party no. 2 and she herself had locked her up in the room and closed the windows and upon



persuasion she had opened the same and thereafter on 22nd July, 2021, she had come to his PS, where her father had also come and had returned to her father's place. It was submitted that as per the report of the Chaukidaar there was no physical abuse or torture of the opposite party no. 2 and she had called her father from the matrimonial house. The SHO Maniyari PS also stated that she had come to the police station and there was no sign of any assault on her and that she had gone with her father to her parents' house.

10. At this juncture, when the Court called upon the Superintendent of Police, Vaishali, to know his views as he has enclosed photographs to show that the petitioner and the opposite party no. 2 had come to his office on 20th July, 2021, and wanted to know as to what was their intention, the Superintendent of Police submitted that from his perception, it appeared that the petitioner was eager to take back the opposite party no. 2 in the matrimonial home, but there was lack of enthusiasm on the part of the opposite party no. 2.

11. Learned counsel for the petitioner submitted that after coming to the matrimonial home not only had the opposite party no. 2 locked herself in the room, but had also not eaten any food prepared by the petitioner's side, rather, she consumed



the food which she had brought from her house.

12. The allegation against the petitioner and others, including his family members, is that he being the husband had been given cash, ornaments, furniture etc. during marriage on 24.05.2019 and after five days the petitioner had gone to Delhi without informing her and his family members had tortured her for dowry and the petitioner is also said to have threatened her and demanded dowry on phone due to which she came back to her father's place and when she returned to the matrimonial home after *Panchayati*, the petitioner's side did not relent on the demand of dowry leading to institution of the present case.

13. Learned counsel for the petitioner submitted that the allegation is false and it is the opposite party no. 2, who, for some reason, does not want to live in the matrimonial home despite the petitioner and his family members being ready to keep her with full dignity, honour and security and the demand of dowry is totally false.

14. Learned counsel for the opposite party no. 2 submitted that he has filed affidavit in which it has been stated that after taking the opposite party no. 2 to the matrimonial home, she was tortured and also assaulted and locked up in the room and had to call the police, who rescued her and then she



had gone with her father.

15. From what has been stated by the Superintendent of Police, Vaishali, the SHO, Maniyari PS and the SHO, Mahua PS, the Court finds that the allegation levelled by the opposite party no. 2, as far as the exercise of going to the matrimonial home on 20th July, 2021 and thereafter returning to her parent's place on 22nd July, 2021, is not, as has been stated in the affidavit filed on behalf of the opposite party no. 2, and, rather, her conduct, as disclosed by the aforesaid Police Officers, indicates that she has not only not cooperated but has also not fairly stated the sequence of events. Thus, it is apparent that she is not having any intention to return to the matrimonial home despite the assurance being given by the petitioner ensuring her honour, dignity and safety and also the Court directing for the same.

16. In the aforesaid background, taking an overall view of the matter, as there are indications that the petitioner and his family members being eager to keep the opposite party no. 2 in the matrimonial home and there being lack of intention on behalf of the opposite party no.2 to return to the matrimonial home, the Court is persuaded to allow the prayer for pre-arrest bail.



17. 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 Sub Divisional Judicial Magistrate, Hajipur, Vaishali, in Hajipur Mahila PS Case No. 05 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

18. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

19. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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