

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37205 of 2020

Arising Out of PS. Case No.-53 Year-2020 Thana- MAHILA PS District- Buxar

Chandra Shekhar Choubey, aged about 31 years (M), son of Durga Choubey,
R/O Mohalla Malvianagar, Dhobighat, P.S.- Buxar (T), District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bittu Kumari, Wife of Chandra Shekhar Choubey. D/O Surendra Tiwari,
R/O Mohalla- Gaiswali Gali, M.V College, Charitravan, P.S.- Buxar (T)
District- Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr. Kamal Deo Sharma, Advocate
For the State	:	Mr. Brajendra Nath Pandey, APP
For the Informant	:	Mr. Ashwini Kumar Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-07-2021

The matter has been heard *via* video conferencing.

2. Heard Dr. Kamal Deo Sharma, learned counsel for the petitioner; Mr. Brajendra Nath Pandey, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Ashwini Kumar Rai, learned counsel for the opposite party no. 2-informant.

3. The petitioner apprehends arrest in connection with Buxar (Mahila) PS Case No. 53 of 2020 dated 27.06.2020, instituted under Sections 498(A)/341/323/504/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

4. The allegation against the petitioner, who is the



husband of the opposite party no. 2, is initially of demand of bullet motorcycle and thereafter demand of rupees two lakhs as dowry and further that he used to consume excessive alcohol and finally on 07.04.2020, the petitioner and his other family members after abusing and assaulting her had turned her out of the matrimonial home.

5. Learned counsel for the petitioner submitted that he works in the Army and the marriage was solemnized in the year 2013, but for seven years, there was no complain, including that of demand of dowry and suddenly in the year 2020, this false case has been filed. It was submitted that the informant does not want to live in the matrimonial home and that is why she herself had gone away due to which the petitioner had sent her legal notice on 06.06.2020 for leading a conjugal life but when he did not get any reply, on 19.06.2020, he filed a suit for divorce before the Principal Judge, Family Court, Buxar and thereafter the present case has been lodged on 27.06.2020. Learned counsel submitted that still he is ready to keep the opposite party no. 2 with him.

6. Learned APP submitted that the stand on behalf of the petitioner is only for the purpose of getting relief in the present case without there being any real intention. It was



submitted that from the conduct of the petitioner, it is clear that he is at fault. It was submitted that first the petitioner has to explain as to why he had sent notice to the informant on 06.06.2020, that is after seven years and thereafter within 13 days straightaway he has filed a suit for divorce without either waiting for a reasonable period or filing a suit for restoration of conjugal rights. It was submitted that from the same, it is clear that the petitioner is at fault and within 13 days of sending a notice, that too after seven years, when he has filed a case seeking divorce, obviously the informant who was tolerating such behaviour had to come up with her side of story and has lodged the police case, which cannot be said to be false as the allegations are very natural. Further, it was submitted that once the petitioner himself states that he is in Army, it is obvious that he is posted outside his ancestral home, there is no averment as to whether he would be keeping her with him or is only taking a plea before the Court that she should go and live in his ancestral house.

7. Learned counsel for the informant submitted that in the year 2018 also she was beaten by cane by the petitioner and people of the locality had brought her to her parents place and that she has been threatened that even if she goes back she



would not be allowed to live and her dead body would go out and further that the petitioner and her family members want him to get married to another girl. Thus, the stand was that the submissions of learned counsel for the petitioner are totally unbelievable and not worthy of any reliance because of his past conduct and only because the informant used to keep quiet due to social pressure, she had not raised the issue earlier, but when the petitioner himself filed a divorce case, she was also forced to tell the truth. Learned counsel reiterated that the *mala fide* on the part of the petitioner would be clear from the fact that on 06.06.2020, he is said to have given notice through an advocate with regard to the informant for joining her conjugal life but within 13 days on 19.06.2020 straightaway a divorce case has been filed. He submitted that the informant has no confidence left to return to the matrimonial house due to the harrowing experience she has had in the past, especially the brutal assault by none else than the petitioner himself who is her husband and is supposed to protect her dignity, honour and keep her safe, at which he has miserably failed.

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



learned counsel for the informant.

9. From the conduct of the petitioner as noted above, the Court does not find that the allegations made in the FIR can be said to be untrue or unbelievable, at least for the present.

10. In the aforesaid background, having considered the facts and circumstances of the case and submissions of learned counsel for the parties and taking an overall view, the Court is not inclined to grant pre-arrest bail to the petitioner.

11. Accordingly, the petition stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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