

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 79132 of 2019

Arising Out of PS Case No.-489 Year-2019 Thana- CHAPRA TOWN District- Saran

Prashant Kumar @ Kumar Prashant (Gender-Male), aged about 35 years, Son of Shri Ajay Prasad, Resident of Mohalla - Dariyapur Gola, Nala Road, PS- Kadam Kuan, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pratima Bharti, Wife of Shri Prashant Kumar, Daughter of Shri Gangotri Prasad, Resident of Village - Mauna Bawli, PS- Nagar, District - Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sushil Jhunjunwala, Advocate
For the State	:	Mr. Ramchandra Singh, APP
For the Opposite Party No. 2	:	Mr. Sanjeev Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT

Date : 12-03-2021

Heard Mr. Sushil Jhunjunwala, learned counsel for the petitioner; Mr. Ramchandra Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Sanjeev Kumar, learned counsel for the opposite party no. 2-complainant.



2. On 3rd March, 2021, the following order was recorded:

“Heard Dr. Shashi S Kishore, learned counsel for the petitioner; Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (APP) for the State and Mr. Sanjeev Kumar, learned counsel for the opposite party no. 2.

2. After detailed hearing and interaction with the parties, though the Court was of the opinion that the petitioner was very adamant, but on the plea of his learned counsel that one week be given to him to try for one final round of talks, for an amicable settlement between the parties, with consent of opposite party no. 2 and her learned counsel, the matter be listed as the first item on 10th of March, 2021. Patna High Court CR. MISC. No.79132 of 2019(8) dt.03-03-2021

3. Personal appearance of the parties is dispensed with.”

3. Today, it is not disputed that such settlement has not taken place.

4. Accordingly, the matter has been heard on merits.

5. The petitioner apprehends arrest in connection with Chapra Town PS Case No. 489 of 2019 dated 01.09.2019, instituted under Sections 147, 149, 307, 379, 498A, 420, 427 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

6. The petitioner is the husband of opposite party no. 2. As per the FIR, the marriage took place on 12.05.2018 and after sometime, the petitioner along with others started demanding Rs. 5,00,000/-cash and Rs. 10,00,000/- for purchase of flat as dowry



and due to non-fulfilment, the opposite party no. 2 was tortured. It was further alleged that despite the opposite party no. 2 trying to convince the accused persons, they continued with the torture and misbehaviour and attempt was made even to kill her and that the accused persons snatched the jewellery, clothes and mobile of the opposite party no. 2 and ousted her from the matrimonial home.

7. Learned counsel for the petitioner submitted that the opposite party no. 2 is at fault and there was no such demand or torture and the present case has been filed only after the petitioner instituted Matrimonial (Divorce) Case No. 657 of 2019, in the Court of Principal Judge, Family Court, Patna on 29.05.2019, and upon receiving notice of the same. It was contended that the opposite party no. 2 was right from the beginning not cooperating and because of the experience of the petitioner, it is difficult to live with the opposite party no. 2 as there is no chance of any reconciliation.

8. Learned APP submitted that there is specific allegation against the petitioner.

9. Learned counsel for the opposite party no. 2 submitted that the opposite party no. 2 has been patient with the petitioner and his family members and was hoping that things would be sorted out but when the petitioner filed the divorce suit,



it was clear that he had *mala fide* intention due to which the opposite party no. 2 was also forced to come out with the truth against the petitioner and his family members. It was submitted that had the petitioner been clean in his intention, if at all the opposite party no. 2 had deserted him, the natural course of action would have been to file an application for restitution of conjugal rights and not a divorce suit. Learned counsel further submitted that perusal of paragraph no. 13 of the divorce suit would expose the dark side and ill intention of the petitioner inasmuch as, he has alleged that the opposite party no. 2 used to go to various places of worship and used to spin out magical charms on him. Learned counsel submitted that the stand taken in the divorce suit would clearly indicate that all types of frivolous pleas were taken, somehow to create a ground for not keeping the opposite party no. 2.

10. Before the Court taking a view in the matter, it would be useful to record that repeatedly time was granted to the petitioner to sort out the matter and learned counsel, who was appearing for the petitioner initially as also learned counsel for the opposite party no. 2, at the request of the Court had personally taken interest and also tried to work out a settlement between the parties but basically due to the attitude of the petitioner, nothing



could be worked out as he was rigid and adamant right from the beginning.

11. Having considered the matter in totality, in the tentative view of the Court, the conduct of the opposite party no. 2 and the allegations made cannot be said to be false or frivolous. The circumstances are also quite natural that a girl in today's society would be reluctant to take an extreme step unless forced to do so and in the present case, as has rightly been submitted by learned counsel for the opposite party no. 2, the petitioner straightaway filing a suit for divorce was enough reason for the opposite party no. 2 also to do away with any inhibition and come out in the open, by disclosing the truth and filing a case.

12. The Court would further observe, at this juncture, that for the purposes of consideration of the present application for grant of pre-arrest bail, it has only tried to assess the position taking an overall and objective view and any discussions made in this order will not cause prejudice to either side in any other proceeding.

13. In the background of discussions made hereinabove, the Court is not inclined to grant pre-arrest bail to the petitioner.

14. Accordingly, the application stands dismissed.



15. As a consequence, interim protection given to the petitioner under order dated 04.12.2019, also stands withdrawn.

(Ahsanuddin Amanullah, J.)

P. Kumar

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