

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 79168 of 2019

Arising Out of Complaint Case No.-161 Year-2019 Thana- ROHTAS COMPLAINT CASE
District- Rohtas

Satish Kumar Tiwary (M), aged about 28 years, Son of Madan Tiwary,
Resident of Village-Telari, PS-Chenari, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Seema Devi, Wife of Satish Kumar Tiwary, Daughter of Kamlesh Pandey,
Resident of Village-Telari, PS-Chenari, District-Rohtas at Sasaram, At
present Address-Resident of Village, PO and PS-Sheosagar, District-Rohtas
at Sasaram.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar Sahay, Advocate
For the State	:	Mr. Yogendra Kumar, APP
For the Opposite Party no. 2	:	Mr. Chhote Lal Mishra, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 11-02-2021

The matter has been heard via video conferencing.

2. Heard Mr. Ravi Shankar Sahay, learned counsel for
the petitioner; Mr. Yogendra Kumar, learned Additional Public
Prosecutor (hereinafter referred to as the 'APP') for the State and
Mr. Chhote Lal Mishra, learned counsel for the opposite party no.
2.

3. The petitioner apprehends arrest in connection with
Complaint Case No. 161 of 2019 dated 19.02.2019, instituted
under Sections 498A/ 34, 323, 307, 379, 312, 504, 506, 384 of the
Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

4. The opposite party no. 2, who is the wife of the
petitioner has filed the case alleging that soon after marriage on



11.06.2015, the accused started demanding cash of Rs. 5 lakhs and one *pakka* house on one *katha* land at Sheosagar and on refusal, they subjected her to cruelty and torture and also did not provide food. It is further alleged that they did not allow her to meet her parental family and in April, 2018, they forcibly got abortion done and when her father came on 19.06.2018, the accused had assaulted the complainant. It is also alleged that the father of the opposite party no. 2 was kidnapped and threatened and under coercion signature was taken on four plain papers with intention to wrongly use it for appropriating the ornaments and clothes given to the complainant from her parents' side and despite several attempts, the accused did not give up their demand of dowry and on 15.02.2019, when the complainant and other witnesses came to the house, the accused persons did not allow them to enter the house and on objection, the complainant was pushed on the earth and attempt was made to strangle her but she was saved by the witnesses for which she got treatment in Primary Health Centre at Chenari.

5. Learned counsel for the petitioner submitted that the allegations are false and it is the opposite party no. 2 who has the habit of leaving the matrimonial home. It was submitted that the petitioner had filed Matrimonial Case No. 14 of 2019 before the



Principal Judge, Family Court, Rohtas under Section 9 of the Hindu Marriage Act for restitution of conjugal rights which was withdrawn on 18.03.2019, on the assurance given by the complainant's family. It was submitted that the petitioner has again filed Matrimonial Case No. 270 of 2019 and that he is ready to keep the complainant with dignity and respect.

6. Learned APP submitted that the fault appears to be on the part of the petitioner and that is why Mediation has also failed.

7. Learned counsel for the opposite party no. 2 submitted that during Mediation, there was talk of one-time settlement and as per own showing of the petitioner, the landed property he has and in view of the details of properties as disclosed in the affidavit filed on behalf of the opposite party no. 2, there being sufficient land which would come in the share of the petitioner, she was agreeable to payment of Rs. 50,000/- and transfer of 3 *kathas* of land in favour of the opposite party no. 2.

8. At this juncture, when the Court called upon learned counsel for the petitioner that since he has not replied or controverted the property which would ultimately come in his share, as has been disclosed in the affidavit filed on behalf of opposite party no. 2, whether he was agreeable to a one-time



settlement on such terms, learned counsel submitted that the petitioner was not ready for the same.

9. Learned counsel for the opposite party no. 2 further submitted that the case for restitution of conjugal rights has been filed by the petitioner after lodging of the present case which clearly indicates that there was no real intention to keep the opposite party no. 2 and only to create a defence, the same has been done.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the allegations levelled in the complaint with regard to demand of dowry leading to torture and assault cannot be said to be frivolous or unbelievable, at least for the present.

11. Thus, taking an overall view in the matter, the Court is not inclined to grant pre-arrest bail to the petitioner.

12. Accordingly, the application is dismissed.

13. The interim protection given to the petitioner under order dated 11.12.2019, stands withdrawn.

(Ahsanuddin Amanullah, J.)

P. Kumar

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