

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2313 of 2020

Arising Out of PS. Case No.-510 Year-2019 Thana- GARDANIBAG District- Patna

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HAMID RAHIM Son of Md. Khalid Rahim Resident of House No. 219,
Harun Nagar Colony, Sector 2, P.S.- Phulwari Sharif, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Shagufta Nair D/O- Md. Gulam Nair Resident of House No. B/56, Road No. 15 (A), Alingar Colony, P.S.- Gardanibagh, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Thakur Md. Majid Mahboob Khan
For the State	:	Mr. H.A. Khan, APP
For the O.P.	:	Syed Waquar Haider

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

14 22-06-2022 Heard learned counsel for the parties.

The petitioner apprehends his arrest in Gardanibagh P.S. Case No.510 of 2019, registered for the offences punishable under Sections 498(A)/34 of the Indian Penal Code and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

The allegation in the FIR against the petitioner, who is husband of informant, is that his father asked for dowry in shape of loan of Rupees five lacs and just ten days ago of her marriage, the father of the petitioner also demanded Rupees seven lacs and a vehicle which were given. It is further alleged that her ornaments were kept by her husband and in-laws. It is further alleged that on 13.08.2019 she received a Whatsapp message whereby she was given Divorce (Talaq) and later on 23.08.2019 she received an envelop through registered post whereby she was informed



regarding three Talaq. Again on 27.08.2019, she received an envelop whereby she received a Talaqnama.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. It is further submitted that the petitioner has given Talaq to opposite party no.2 on Whatsapp and thereafter by two registered letter. It is also submitted that the petitioner has got one criminal antecedent.

Learned counsel appearing on behalf of opposite party no.2 submits that the Talaq is void and illegal according to the Muslim Women (Protection of Rights on Marriage) Act, 2019.

Section 2(c) of the Muslim Women (Protection of Rights on Marriage) Act, 2019 is reproduced hereinbelow:

“2. Definitions.- In this Act, unless the context otherwise requires,-

(a).....

(b).....

(c) “*talaq*” means *talaq-e-biddat* or any other similar form of *talaq* having the effect of instantaneous and irrevocable divorce pronounced by a Muslim husband.”

Section 3 of the aforesaid Act is also quoted below:-

“3. Talaq to be void and illegal.-Any pronouncement of *talaq* by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be *void* and illegal.”

After some arguments, petitioner is ready to pay



Rs.10,000/- (rupees ten thousand) per month as maintenance to opposite party no.2.

The opposite party no.2 is directed to give details of her account to the petitioner.

Taking into consideration the facts aforesaid, let petitioner, above named, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs.25,000/- (rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-XIV, Patna in connection with Gardanibagh P.S. Case No.510 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that the petitioner shall pay the aforesaid maintenance amount in the account of the informant in the first week of every month and if petitioner fails to pay the aforesaid maintenance amount to the informant for two months consecutively, the learned court below would be at liberty to cancel the bail bond of the petitioner.

(Anjani Kumar Sharan, J.)

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