

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13623 of 2022

Arising Out of PS. Case No.-6 Year-2021 Thana- JOGBANI District- Araria

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Ankit Kotriwala Son of Raj Kumar Kotriwala R/o Kotriwala Bhawan, Radhey Shyam Kotriwala Lane, M.P.D. Road, Near Gaushala, Naya Bazar, Jagdishpur, P.S. Kotwali, District Bhagalpur (Bihar), At Present Residing At 88 Burr Close, 07th Floor, Saint Katherine Docks, Tower Bridge, London-Eiwind.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Diksha Agrawal Wife Ankit Kotriwala, D/o Krishna Kumar Agrawal R/o Dharamshala Road, Ward No.13, P.S. Jogwani, District Araria And At Present Address At 39 Craven Hill Guarden, Flat 10vv23ea, Landan (UK).
3. Krishna Kumar Agrawal Son of Ram Bilash Agrawal R/o Dharamshala Road, Ward No.13, P.S. Jogwani, District Araria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Senior Advocate Mr. Arun, Advocate Mr. Apurv Harsh, Advocate
For the State	:	Mr. H.A. Khan, APP
For O.P. Nos.2 & 3	:	Mr. Jitendra Singh, Senior Advocate Mr. Yash Singh, Advocate Mr. Amit Bhaskar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV ORDER

9 25-02-2023 Heard Mr. Pushkar Narayan Shahi, learned Senior Counsel assisted by Mr. Arun for the petitioner, learned APP for the State as well as Mr. Jitendra Singh, learned Senior Counsel assisted by Mr. Yash Singh appearing on behalf of the informant.

2. The petitioner apprehends his arrest in connection with Jogbani P.S. Case No.06 of 2021, registered for the offences punishable under Section 498(A) of the Indian Penal



Code and Sections 3/4 of the Dowry Prohibition Act.

3. The informant has lodged this case against the petitioner and in-laws of his daughter alleging that the informant has solemnized marriage of his daughter with petitioner on 15.12.2018 and gave Rs.11,00,000/- as gift. After marriage when the daughter of the informant went to her Sasural, the petitioner alongwith his family members in collusion and connivance with each other started torturing the informant's daughter physically and mentally including assault for further dowry demand of cash of Rs.3 crore or to purchase a flat at Bangalore. It is further alleged that the daughter of the informant has made complaint before the Women Help line for the cruel behaviour of her husband and she also made written complaint before Mahila P.S., Patna. Thereafter the husband of informant's daughter came at Patna and assured to keep his wife properly and settled the matter and brought the daughter of the informant with him. The informant being the father has tried to resolve the matter. In the meantime, the petitioner was going to London and he demanded Rs.10,00,000/- from the informant on the pretext that he will take his wife with him at London and the informant gave him Rs.10,00,000/- and the daughter of the informant went to London with her husband, but at the



instigation of the parents, the husband of the informant's daughter again started torturing her and asked the informant to fulfill the aforesaid demand of Rs.3 crore and when the informant showed his inability to fulfill his demand, the son-in-law of the informant leaving his daughter at London came back to India. The informant several times tried to negotiate the matter but the accused persons were adamant for their demand of dowry of Rs.3 crores.

4. Mr. Pushkar Narayan Shahi, learned Senior Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. It is submitted that the complaints against the petitioner and his family members are untrue and based on some vivid imagination and also not maintainable on the ground that marriage was never solemnized in Jogbani, Araria. It is submitted that the petitioner has got no criminal antecedent rather the opposite party no.2 has filed complaints before Women Help Line at Bangluru and Mahila P.S., Patna after filing of divorce case of petitioner which were ended in compromise. It is further submitted that right from the marriage, the O.P. No.2 has compatibility issues with the petitioner. She was educated in England having completed her MBA from



Nottingham. On the other hand, the petitioner comes from a very conservative family living in a traditional Indian way of life. The O.P. No.2 has liking for western lifestyle including drinking and smoking. It is submitted that the rift between the petitioner and O.P. No.2 started due to such incompatibility as the O.P. No.2 began to make fun of the petitioner and his parents. The drinking and smoking habit of the O.P. No.2 caused huge embarrassment to the petitioner. The O.P. No.2 used to behave very wildly after drink. When the petitioner or his family members tried to counsel her, she made complaint in the Women Help Line or the local police causing harassment to the petitioner. It is further submitted that being fed-up with the behaviour of the O.P. No.2, the petitioner filed a petition for dissolution of marriage before the Principal Judge, Family Court, Bengaluru vide MC No.6281 of 2019. After institution of the said case, the O.P. No.3 began to put pressure upon the petitioner and also assured him that the O.P. No.2 would behave responsibly. The petitioner also relied upon the assurance made by O.Ps. No.2 and 3 and withdrew the aforesaid case. Learned Senior Counsel for the petitioner submits that the petitioner took O.P. No.2 with him to London where he was employed. However, soon after reaching London, the O.P. No.2 began to



behave in the same manner. The O.P. No.2 in order to harass the petitioner levelled false charges of rape against him. However, the allegations were not supported by any evidence. It is submitted by learned Senior Counsel for the petitioner that none of the alleged occurrence took place at Araria. The marriage was solemnized on 17.06.2018 in Bengaluru and it was registered at Bengaluru on 20.08.2018. The petitioner and the O.P. No.2 have resided mostly in Bengaluru, Mumbai and London. The O.P. No.3 has made false statement that the marriage was solemnized in Araria. The O.P. No.3 has instituted the FIR at Araria only to harass the petitioner who is presently residing in London. Learned Senior Counsel further submits that the FIR was lodged by the father of O.P. No.2 and no case under Section 498A of the Indian Penal Code is made out against the petitioner. The entire family members of the petitioner have been made accused in the instant case and the family members of the petitioner have been granted bail.

5. Learned APP for the State as well as Mr. Jitendra Singh, learned Senior Counsel for the opposite parties vehemently opposed the prayer for grant of anticipatory bail to the petitioner by submitting that the FIR discloses the fact that the marriage of the petitioner and the opposite party no.2 had



been solemnized at Jogbani with Hindu Rites and Rituals and thereafter formal ceremony was held at Bangalore upon the request of the petitioner's family. Section 198A Cr.P.C. is being reproduced herein below:

198A.Prosecution of offences under section 498A of the Indian Penal Code. No Court shall take cognizance of an Offence Punishable section 498A of the Indian Penal Code except upon a police report of facts which constitute such offence or Upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father' s or mother' s brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.

6. Learned Senior Counsel for the opposite parties submits that the petitioner being a Chartered Accountant by profession worked at various places during the course of their marriage and inflicted both mental and physical cruelty upon O.P. No.2 for demand of dowry. It is further submitted that the petitioner who is the husband of the informant's daughter is a habitual offender who has in the past at several instances indulged himself in cruelty and harassment both mental and physical towards his wife on several occasions for which numerous complaint/sanaha/letters to concerned authorities have been registered in multiple cities including Patna, Jogbani,



Bangalore, Mumbai and London (UK) where the daughter of the informant was then residing with the petitioner. It is submitted that the petitioner alongwith his family members had started indulging himself in cruelty towards his wife both physical and mental for demand of dowry of Rs.3 Crores or a flat in Bangalore for the equivalent amount and thus the husband and his family members had also thrown her out of her house within one year of her marriage while they were still residing in Bangalore without any money and without her belongings for which incident a complaint had been made to the Secretary, Karnataka State Commission for Women vide letter dated 22.11.2019. Since the petitioner continued to inflict cruelty and atrocities including physical assault upon his wife, the informant's daughter had also registered a complaint on 14.02.2020 with the Mahila P.S., Gardani Bagh being DR No.301 Mahila P.S. dated 14.02.2020 while she was residing at Patna for which the petitioner was called to the police station and an undertaking on 26.02.2020 was provided by the petitioner that he would keep his wife well with dignity and self respect and would not indulge himself in abusing and assaulting his wife else he would be liable for prosecution. It is further submitted that in the year 2020, the petitioner had demanded a



sum of Rs.10 lakhs from the informant on the pretext that the informant would take her daughter alongwith petitioner to keep his daughter in London with him with dignity and self respect from where he was to operate his business at the point of time while the petitioner and the informant's daughter were still residing in Bombay. Since the informant was unable to pay the aforesaid amount to the petitioner on account of stressed financial and business condition on account of COVID-19 pandemic, the informant's daughter was again harassed by her husband and subjected to cruelty for which information by way of Sahana was also provided to the local authorities vide letter dated 01.06.2020. Thereafter the informant somehow managed to arrange and pay to the petitioner a sum of Rs.6 lakhs. Learned Senior Counsel appearing on behalf of the informant further submits that the instant FIR had been instituted on 10.01.2021, prior to which the petitioner in the month of July-August 2020 had taken the informant's daughter to London from where the petitioner was operating his profession at that point of time and had indulged himself in harassing and cruelty his wife both mentally and physically for demand of dowry even in London for which he was taken into custody by the local police on 7th of September, 2020 upon information from the neighbours



regarding physical assault. It is submitted that the Deputy District Judge, Central Family Court, London had issued order dated 15.10.2020 directing the wife of the petitioner to be in occupancy of the family home of the petitioner and his wife and for which the arrears of rent and also future rent was to be paid by the petitioner and also vide said order had restrained the petitioner from obstructing, harassing or interfering in any manner with his wife's occupation of the family home and from coming within 100 meters of it. Further, the petitioner till date continues to be in flagrant violation of the said order and has not been paying even the rent ever since. It is further submitted that after taking his wife to London on "D- TIER 2-Partner Ankit Kotriwala" Visa which was a dependent Visa, the petitioner intentionally only to harass his wife at his own behest got the Visa cancelled and it was prematurely vide communication dated 14.04.2021 so that the Visa which was otherwise valid till 19.07.2023 would end 13.06.2021 on account of the aforesaid occurrences and in total derogation of the aforementioned orders (Non-Molestation Order and Occupancy Order). It is also submitted that On 31.12.2018, the petitioner took O.P. No.2 alongwith him to Dubai from Bengaluru, where the petitioner had been working as a Chartered Accountant in Price



Waterhouse Cooper, Dubai at the time of his marriage. However, the mother and the sister of the petitioner also reached Dubai on the very next day, i.e., 01.01.2019 and once again started indulging themselves in acts of cruelty towards the O.P. No.2, including instigating the petitioner against his wife. The petitioner also contacted the friends of O.P. No.2 without her permission and indulged in acts of character assassination while also using unparliamentary language which frustrated the O.P. No.2 and she asked her father to book her tickets and returned to Jogbani. It is submitted that the O.P. No.2 was not allowed by the petitioner and his family members to keep her Stridhan and upon asking for the same, the O.P. No.2 was tormented by the petitioner and his family members, including cruelty and harassment coupled with the fact that the petitioner and his family members had earlier thrown her out of their house, therefore, a complaint was filed on 22.11.2019 with Karnataka State Commission for Women and in retaliation the petitioner filed for Divorce on 26.11.2019. Upon filing of divorce case, O.P. No.2 returned to her home at Patna in end of January, 2020 where she stayed for 2-3 weeks and despite not living together, the petitioner continued with mental harassment and torture telephonically during her stay at Patna reiterating his demand



for dowry for which Mahila P.S. DR No.301 dated 14.02.2020 was instituted for which the petitioner was called by the police station and an undertaking dated 26.02.2020 was provided by the petitioner that he would keep his wife with dignity, else he would be liable for prosecution. After which both the petitioner and O.P. No.2 left for Jogbani. Thereafter the petitioner took her to Mumbai on 28.02.2020 and connivingly convinced the O.P. No.2 to withdraw the Karnataka Women Commission complaint on the pretext of withdrawing the divorce case filed by the petitioner. Learned Senior Counsel for the informant submits that the petitioner stated that petitioner and O.P. No.2 never indulged in physical relation with each other and thus, the marriage was never consummated, but in the Divorce Petition filed by the petitioner it is stated that the petitioner and O.P. No.2 went to a resort for a night after completing the registration proceedings and they consummated their marriage on the same day itself. It is further submitted that the petitioner has stated that he has no role to play in cancellation of the Dependent Visa of O.P. No.2 and that it was done at the behest of the Home Department, but the petitioner in his statement before the Central Family Court, London has himself stated that it was the petitioner who contacted the Home Office, London



informing them that he was not willing to live with O.P. No.2 and also did not want to sponsor her Dependent Visa. Learned Senior Counsel for the informant submits that conduct of the petitioner is not proper before this Court because this Court to help/reconcile the marriage between the petitioner and O.P. No.2, both the parties agreed to negotiate and settle the issue between them but the petitioner intentionally and deliberately delayed and prolonged the initiation of negotiation for more than two months and without informing this Court again filed petition for divorce at Bangalore, while sitting on the interim protection by this Court order dated 10.08.2022 with malafide intention.

7. Considering the arguments of the parties and from perusal of the records including the case diary and also considering the conduct of the petitioner, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the prayer for grant of anticipatory bail to the petitioner is hereby rejected.

(Anjani Kumar Sharan, J.)

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