

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34134 of 2022

Arising Out of PS. Case No.-5 Year-2022 Thana- MAHILA P.S. District- Munger

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DHIRAJ KUMAR SON OF SUDHANSHU PRASAD YADAV @ BHOLA
YADAV R/O- VILL-RAGHUWAR NAGAR (BAGHA), WARD NO. 29,
P.S.- MUFASSIL, DIST.- BEGUSARAI

... .. Petitioner/s

Versus

1. The State of Bihar
2. SANYOGITA KUMARI@ DAULI VIDYA KISHOR, ADVOCATE, WIFE
OF DHIRAJ KUMAR R/O- MOHALLA BANK, P.O.- BANK, P.S.-
MUFFASIL, DIST.- MUNGER

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivjee Singh

For the Opposite Party/s : Mr. Md. Iftekhar Mahmood

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

4 26-04-2023 Heard learned counsel for the petitioner learned A.P.P.

for the State, Mr. Iftekhar Mahmood and learned counsel for the
informant.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 498A, 494
and 34 of the Indian Penal Code and Sections 3 and 4 of the
Dowry Prohibition Act.

Learned counsel for the petitioner submits that
petitioner is the husband and has been falsely implicated in the
present case by the informant, it is next submitted that the
petitioner was married to the informant in the year 2010 but out
of the wedlock no child was born, as such, the couple remained
issue-less for nearly eight years, it is next submitted that after



obtaining consent of the informant, the petitioner performed his second marriage and was paying maintenance of Rs. 11,000/- to the informant since 2018. It is also submitted that the informant prior to instituting the present FIR was staying with the petitioner in the same house and it was only after institution of the present FIR that the informant left her matrimonial home and went to stay at her parental home. Learned counsel next submits that the second marriage of the petitioner was performed in the background as recorded herein above.

Learned counsel for the petitioner, at the cost of repetition, submits that it was only after seeking consent and permission of the informant that he performed his second marriage which can also be culled out for the fact that if the informant would have been aggrieved by the conduct of the petitioner in performing his second marriage in the year 2018, then the informant promptly would have instituted a case or would have sought legal remedies as available in law but the informant on 14.07.2021 for the first time filed a maintenance case, despite maintenance of Rs. 11,000/- being given to the informant by the petitioner and, thereafter, the present FIR came to be instituted on 1.02.2022, it is next submitted that after institution of the present FIR, a complaint case was also



instituted by the present informant against the petitioner on 30.06.2022 which amply demonstrates that in between 2018 till 13.07.2021 there was no dispute between the informant and the petitioner. Learned counsel next submits that what is not being dispute and is rather admitted which will not be rebutted by the learned counsel for the informant is that the petitioner and the informant remained issue-less for nearly eight years after their marriage and when the petitioner performed his second marriage, the petitioner was blessed with a child. Learned counsel thus submits that institution of marriage is for pro-creation so that the family tree continues.

Learned counsel for the informant, at this stage, appears and submits that the informant is not opposing the anticipatory bail of the petitioner and is willing to withdraw the maintenance case which has been filed by her against the petitioner in the Court of learned Principal Judge Family Court, Munger and will also withdraw the complaint case instituted against the petitioner on 30.06.2022 in the Court of learned A.C.J.M. Munger.

Learned counsel for the petitioner submits that he was always willing to maintain the informant but since after marriage they remained issue-less, as such, he had to perform



his second marriage after seeking consent of the informant, it is next submitted that petitioner still is willing to maintain the informant and for that, he will pay Rs. 15,000/- per month commencing from 01.05.2023 till the trial is not concluded arising out of the present FIR.

Learned counsel for the petitioner also submits that initially he was paying Rs. 11,000/- by way of maintenance to the informant but after institution of the present FIR on 01.02.2022 the said amount was not paid.

Learned counsel for the petitioner submits that he has instructions to make submission that the petitioner is willing to pay the arrear maintenance which he was paying to the informant earlier which now is due for nearly fourteen months, within a period of 2 months from today.

Learned counsel thus submits that apart from the maintenance which the petitioner will be paying to the informant which will commence from 1st May 2023, the petitioner shall also pay an amount of Rs. 1 lac 54 thousand in addition thereto by 27.06.2023, towards arrear maintenance.

Learned counsel for the informant, at this stage, submits that, in the event, if the petitioner resiles from his undertaking then what will happen to the informant.



The Court does not express any opinion on the said submission as the law is clear that an undertaking given before a Court if not acted upon, the consequences will automatically follow.

At this stage, the learned counsel for the petitioner submits that even the informant will have to abide by the undertaking which has been given on her behalf in presence of her father to which the learned counsel for the informant submits that the informant will not resale.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Munger P.S. Case No. 05 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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