

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10766 of 2021

Arising Out of PS. Case No.-239 Year-2018 Thana- GOPALGANJ TOWN District-
Gopalganj

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Harun Miyan @ Md Harun @ Harun Mian Son of Razaque Miyan Resident
of Village-Jaipur, P.S-Kateya, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Tabassum Naz D/o Salahuddin Ahmad, W/o Reyaz Ahmad Resident of
Village-Jaipur, P.S-Kateya, District-Gopalganj, at present resident of
Mohalla-Jangaliya, Ward No.18, P.S. and District-Gopalganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mohammad Sufyan, Advocate
For the Opposite Party/s : Mr. A.G

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 02-08-2024 Heard Mr. Mohammad Sufyan, learned advocate for
the petitioner and learned A.P.P. for the State.

2. The petitioner is aggrieved by the order dated
23.10.2019 passed by learned District and Sessions Judge,
Gopalganj in Cr. Misc. Case No.206 of 2019 whereby the
learned court refused to modify the order dated 25.09.2019 in
connection with A.B.P. No.1879/2019, arising out of Gopalganj
P.S. Case No. 239 of 2018, corresponding to Tr. No. 2118/2019
registered for the offences punishable under Sections 406,
498(A) of the Indian Penal Code and under Section 3/4 of the
Dowry Prohibition Act.

3. Learned advocate for the petitioner contended that



the marriage of the complainant was solemnized with Reyaz Ahmad on 24.11.2014 as per the Muslim Rites and Custom. However, on account of some differences, an FIR have been instituted alleging demand of dowry and on account of non-fulfillment of the same the informant was subjected to cruelty and torture. It is further contended that the petitioner being elder brother of the husband, his name has also been implicated in this case along with other family members. Apprehending his danger, the petitioner filed an anticipatory bail before the learned Sessions Judge in APP No. 1879 of 2019. The learned Sessions Judge having considered the allegation have been pleased to grant anticipatory bail vide order dated 25.09.2019, however, with certain condition *inter alia* that the informant is legally wedded wife and she will be entitled to get Rs.3,000/- plus Rs.2,000/- for maintenance to save her from destitution and starvation to avoid vagrancy. The learned Sessions Judge, while allowing his pray for anticipatory bail observed that:-

"Acceptance of bail bond will be subject to filing affidavit to the effect:-

(a) The husband-petitioner has no option to quit his wife and provide her good accommodation.

(b) The petitioner-husband will hand over Rs.5,000/- (five thousand in all) to aggrieve legal



wedded wife in her hand for showing the honest desire."

4. The contention of the petitioner before this Court is that the petitioner has neither any concern with the family affairs of the husband and the informant nor he is residing with them. However, only on account of the fact that he being an elder brother of the husband his name has been implicated in this case. So far the undertaking given before the learned Sessions Judge is concerned, it is contended that it was only on undertaking that the petitioner and other in-laws will never create any hindrance in making good harmony between the spouse.

5. On the other hand, learned advocate for the State submitted that order dated 25.09.2019 has been passed on an undertaking given by the petitioner that the petitioner being in-laws is ready to keep and maintain the informant with full honor and dignity and in support of the aforesaid fact, an affidavit sworn by the co-accused persons including petitioner in previous case has filed that they will provide her good accommodation and livelihood and never give her any occasion to complain against them to anyone and will also obey all the conditions imposed by the Court.

6. The petitioner has also moved before the learned



Sessions Judge for modification of the order dated 25.09.2019 whereby the aforementioned condition has been imposed, however, the same came to be disposed of taking note of the fact that there was necessity to impose the condition to maintain the legally wedded wife-informant.

7. Having heard the submissions advanced before the respective parties, this Court does not find any reason and occasion to interfere in the impugned order dated 23.10.2019. Needless to observe that the condition has been imposed on account of the undertaking given by the petitioner and others that they will maintain the informant and provide good accommodation and livelihood. This Court does not find any infirmity in the order.

8. Accordingly, the quashing application stands dismissed.

(Harish Kumar, J)

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