

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50727 of 2023

Arising Out of PS. Case No.-434 Year-2021 Thana- BYPASS District- Patna

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Sohan Kumar @ Sohan Chaudhary (Male), aged about 43 years, Son of Ram Nath Chaudhary, Resident of Village-Karmalichak, Police Station-Bypass, District-Patna (Tenant of Jagdish Pandit).

... .. Petitioner

Versus

1. The State of Bihar.
2. Pinki Devi (Female), aged about 30 years, Wife of Sohan Kumar @ Sohan Chaudhary, Resident of Village-Karmalichak, Police Station-Bypass, District-Patna (Tenant of Jagdish Pandit) Mobile No. 8340701696

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Sudish Kumar, Advocate
For the O.P. No. 2	:	M/S. Ajay Kumar Tiwary and Hari Mohan Tripathi, Advocates
For the State	:	Mr. Kalyan Shankar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 19-03-2024 Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bypass P.S. Case No. 434 of 2021 dated 11.11.2021 registered for the offences punishable under Sections 341, 323, 504, 506 and 498A/34 of the I.P.C.

3. As per the prosecution case, the husband of the petitioner used to sell toddy and also he is always in drunken state. Despite two sons, he contracted second marriage with



Mamta Devi and he tried to get her out from the way by assaulting her. On 29.10.2021 at 7.00 A.M., he came in drunken state and threw ripened rice from the oven. He also assaulted the informant on her head with bricks with the help of his second wife Mamta Devi, as a result of which, she sustained injuries. Thereafter, Mamta Devi called her two sons, namely, Akhilesh Kumar and Mithilesh Kumar and tied with rope in her neck and tried to hang with fan. On hulla, the nearby people came and saved her life.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner neither demanded any dowry nor tortured the informant. It is further submitted that the petitioner is the husband of the informant and he has no concern with the alleged offence. There is general and omnibus allegation against the petitioner. The marriage of the petitioner with Mamta Devi who is second wife of the petitioner was solemnized with the consent of the informant and she never opposed the second marriage of her husband. The second wife of the petitioner has two children aged about 18 years and 16 years old whereas the informant has one son aged about 11 years old and one daughter aged about 8 years old. It is submitted that the informant wants



to partition and she does not want to live with the petitioner whereas the petitioner is still ready to keep his wife as stated in paragraph no. 12 of the bail petition. It is further submitted that after lodging the present case, the informant has filed Maintenance Case No. 418 of 2022 under Section 125 of the Cr.P.C., before the learned Principal Judge, Family Court, Patna, in which notice has already been issued on 06.02.2023 for her appearance. Learned counsel for the petitioner has further submitted that the dispute between the parties has been resolved through the process of mediation and now there is no dispute between the parties and the petitioner and the informant are living together happily. Learned counsel for the petitioner has relied upon the judgments of this Court in the case of “*Md. Naimul Haque Ansari @ Naimul Haque Ansari & Ors. Vs. The State of Bihar*, reported in *2006(3) PLJR 182*” and in the case of *Satendra Kumar Antil Vs. Central Bureau of Investigation and Another (2022) 10 SCR 351* and *Md. Asfak Alam Vs. The State of Jharkhand & Anr.* passed in *Criminal Appeal No (s). 2207 of 2023 arising out of Special Leave Petition (CRL.) No. 3433 of 2023*. Learned counsel for the petitioner has further submitted that Section 498A of the Indian Penal Code is triable by the Magistrate. The petitioner has one



criminal antecedent as stated in paragraph no. 3 of the bail application. However, now the petitioner and the informant are ready to resolve the dispute between them through the Mediation Proceeding on the following terms and conditions:-

“ Patna High Court Mediation Centre
Memorandum of Agreement
Mediation Proceeding No. 1220 of 2023
(Arising out of Cr. Misc. No. 50727 of 2023)

An agreement made on 16.02.2024 at the High Court, Patna Mediation Centre, between, Sohan Kumar @ Sohan Chaudhary, Son of Ram Nath Chaudhary, resident of village-Karmalichak, P.S. Bypass, District-Patna (Tenant of Jagdish Pandit).

....Petitioner (First Party).

And

Pinki Devi, wife of Sohan Kumar @ Sohan Chaudhary, resident of Village-Karmalichak, P.S. Bypass, District-Patna (Tenant of Jagdish Pandit), Mobile No. 8340701696.

----Opposite Party No. 2. (Second Party).

Both parties are agreed to settle the dispute with the consent and sweet will on the basis of the following terms and conditions:-

1. That both the parties are agreed upon to live together as the husband and the wife with children.
2. That the petitioner is ready to keep her wife and children with full honour and dignity. He also assured that he will fulfill all requirements to his wife and children.
3. That the opposite party no. 2 is agreed upon to withdraw the Bypass, District-Patna P.S. Case No. 434 of 2021 pending before the court below and also ready to withdraw Maintenance Case No. 418 of 2022 pending before the Family Court, Patna.
4. That both the parties are agreed upon to withdraw the case arising out due to Matrimonial dispute.
5. That both the parties are agreed upon to pay respect to their family members.
6. That the aforesaid contents of the agreement have been read over and explained into Hindi, which have fully been understood and accepted by the parties.

Hence, in the above terms and conditions, a settlement has



been arrived between the parties and both have signed in presence of their respective learned counsels. Who have also put their signature on the agreement.

Sd/- (Sohan Kumar @ Sohan Chaudhary) Signature of the petitioner Date-16.02.2024	Sd/- (Pinki Devi) Signature of the O.P. No.2 Date-16.02.2024.
Sd/- (Sudish Kumar, Advocate) 16.2.2024. Signature of the petitioner, Advocate A.O.R. No. 00527 Date-16.02.2024	Sd/- (Hari Mohan Tripathi, Adv.) Signature of the O.P. No.2 Advocate A.O.R. No. 02458 Date-16.02.2024.”

5. Learned A.P.P. for the State and learned counsel for the opposite party no. 2 have also conceded the contentions made by the learned counsel for the petitioner. Learned counsel for the opposite party no. 2 has further submitted that now the petitioner and the informant have resolved the dispute through the Mediation Proceeding on the terms and conditions as stated above and they have no any grievance to each other.

6. Considering the aforesaid facts and circumstances of the case as well as both the parties have resolved the dispute through the mediation proceeding, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of



learned Additional Chief Judicial Magistrate, Patna City in connection with Bypass P.S. Case No. 434 of 2021, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with further condition:-

(I) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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