

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60502 of 2023

Arising Out of PS. Case No.-12 Year-2023 Thana- MAHILA PS District- Khagaria

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DHEERAJ KUMAR @ KARAN S/O RAMANAND VERMA R/O- ROUN
TOLA, BARUA, P.S- ALOULI, DISTT.- KHAGARIA.

... .. Petitioner/s

Versus

1. The State of Bihar
2. KAJAL KUMARI W/O DHEERAJ KUMAR @ KARAN, D/O B.K. AZAD
SINGH R/O VILLAGE- NIRPUR, P.S- CHOUTHAM, DISTT.-
KHAGARIA.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh, Advocate

For the Opposite Party/s : Mr.Nityanand, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 29-02-2024 Heard Mr. Santosh Kumar Singh, learned counsel

appearing on behalf of the petitioner and Mr. Nityanand, learned

APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with Mahila P.S. Case No. 12 of 2023 dated 23.02.2023
registered for the offence(s) punishable under Sections
498(A)/34 of the Indian Penal Code and Section 3/4 of D.P. Act.

3. The present case relates to matrimonial dispute
between the petitioner and the opposite party no.2 who are
husband and wife. The allegation against the petitioner is of
assaulting the opposite party no.2 for non-fulfillment of demand
of dowry.

4. Vide order dated 06.12.2023 for amicable



settlement of the matrimonial dispute between the petitioner and the opposite party no.2, the matter was referred to Mediation and Conciliation Centre, Patna High Court. However, the mediation became unsuccessful as would appear from the report of the Mediator dated 11.01.2024.

5. Mr. Rajesh Kumar, learned counsel, has tendered his appearance on behalf of opposite party no.2 and informs this Court orally that petitioner is made accused in several cases and he is facing criminal prosecution. The allegation as made by opposite party no.2 in the FIR cannot be denied considering the conduct of the petitioner.

6. The Apex Court in the case of ***K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226***, has elucidated the emerging requirement of mediation and settlement in matters pertaining to Section 498A of IPC, which is a non-compoundable offence as per law. The relevant paragraphs are reproduced hereunder:-

“40. The idea of pre-litigation mediation is also catching up. Some mediation centres have, after giving wide publicity, set up “Help Desks” at prominent places including facilitation centres at court complexes to conduct pre-litigation mediation. We are informed that in Delhi Government Mediation and Conciliation Centres, and in Delhi High Court Mediation Centre, several matrimonial disputes are settled. These centres have a good success rate in pre-litigation mediation. If all mediation centres set up pre-litigation desks/clinics by giving sufficient publicity and matrimonial disputes are taken up for pre-litigation settlement, many families will be saved of hardships if, at least, some of them



are settled.

41. While purely a civil matrimonial dispute can be amicably settled by a Family Court either by itself or by directing the parties to explore the possibility of settlement through mediation, a complaint under Section 498-A IPC presents difficulty because the said offence is not compoundable except in the State of Andhra Pradesh where by a State amendment, it has been made compoundable. Though in Ramgopal v. State of M.P. [(2010) 13 SCC 540 : (2011) 2 SCC (Cri) 145] , this Court requested the Law Commission and the Government of India to examine whether offence punishable under Section 498-A IPC could be made compoundable, it has not been made compoundable as yet. The courts direct parties to approach mediation centres where offences are compoundable. Offence punishable under Section 498-A being a non-compoundable offence, such a course is not followed in respect thereof.

42. This Court has always adopted a positive approach and encouraged settlement of matrimonial disputes and discouraged their escalation. In this connection, we must refer to the relevant paragraph from G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733] , where the complaint appeared to be the result of matrimonial dispute, while refusing to interfere with the High Court's order quashing the complaint, this Court made very pertinent observations, which read thus: (SCC p. 698, para 12)

“12. There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial



litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different courts."

43. In *B.S. Joshi v. State of Haryana* [(2003) 4 SCC 675 : 2003 SCC (Cri) 848 : AIR 2003 SC 1386] after referring to the above observations in *G.V. Rao case* [(2000) 3 SCC 693 : 2000 SCC (Cri) 733] , this Court stated that the said observations are required to be kept in view by the courts while dealing with the matrimonial disputes and held that the complaint involving offence under Section 498-A IPC can be quashed by the High Court in exercise of its powers under Section 482 of the Code if the parties settle their dispute. Even in *Gian Singh v. State of Punjab* [(2012) 10 SCC 303 : (2012) 4 SCC (Civ) 1188 : (2013) 1 SCC (Cri) 160 : (2012) 2 SCC (L&S) 988] (SCC p. 341, para 58), this Court expressed that certain offences which overwhelmingly and predominantly bear civil flavour like those arising out of matrimony, particularly relating to dowry, etc. or the family dispute and where the offender and the victim had settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may quash the criminal proceedings if it feels that by not quashing the same, the ends of justice shall be defeated.

44. We, therefore, feel that though offence punishable under Section 498-A IPC is not compoundable, in appropriate cases if the parties are willing and if it appears to the criminal court that there exist elements of settlement, it should direct the parties to explore the possibility of settlement through mediation. This is, obviously, not to dilute the rigour, efficacy and purport of Section 498-A IPC, but to locate cases where the matrimonial dispute can be nipped in bud in an equitable manner. The Judges, with their expertise, must ensure that this exercise does not lead to the erring spouse using mediation process to get out of clutches of the law. During mediation, the parties can either decide to part company on mutually agreed terms or they may decide to patch up and stay together. In either case for the settlement to come through, the complaint will have to be quashed. In that event, they can approach the High Court and get the complaint quashed. If, however, they



choose not to settle, they can proceed with the complaint. In this exercise, there is no loss to anyone. If there is settlement, the parties will be saved from the trials and tribulations of a criminal case and that will reduce the burden on the courts which will be in the larger public interest. Obviously, the High Court will quash the complaint only if after considering all circumstances it finds the settlement to be equitable and genuine. Such a course, in our opinion, will be beneficial to those who genuinely want to accord a quietus to their matrimonial disputes.

46.2. *The criminal courts dealing with the complaint under Section 498-A IPC should, at any stage and particularly, before they take up the complaint for hearing, refer the parties to mediation centre if they feel that there exist elements of settlement and both the parties are willing. However, they should take care to see that in this exercise, rigour, purport and efficacy of Section 498-A IPC is not diluted. Needless to say that the discretion to grant or not to grant bail is not in any way curtailed by this direction. It will be for the court concerned to work out the modalities taking into consideration the facts of each case."*

(emphasis supplied)

7. This Court, considering the law laid by the Apex Court in the case of ***K. Srinivas Rao vs. D.A. Deepa, (2013) 5 SSC 226***, has passed a detailed order in the case of ***Vipin Kumar Versus the State of Bihar & Anr. (Cr. Misc. No.9176 of 2024)***, vide order dated 20.02.2024, granting anticipatory bail on the similar facts, where the parties have shown their willingness to live together.

8. Considering the rival submissions made on behalf of the parties, the allegation made in the complaint, totality of the circumstances and the fact reveals that a general



and omnibus allegation has been made against the petitioner and custodial interrogation of petitioner is not necessary. I am of the opinion that the petitioner has made out a *prima facie* case to be released on anticipatory bail. The, petitioner, who is the husband of opposite party no.2, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Khagaria in connection with Mahila P.S. Case No. 12 of 2023 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

9. The court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases, as what has been stated in paragraph no.3 of the bail application, this order will automatically lose its force.

10. In the meantime, the parties are at liberty to settle the dispute amicably.

(Purnendu Singh, J)

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