

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60176 of 2023

Arising Out of PS. Case No.-53 Year-2023 Thana- MAHILA PS District- Darbhanga

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BINDESH MISHRA @ BINDESH KUMAR MISHRA Son of Sidh Nath
Mishrta @ Sidhant Mishra R/o vill - Dhanauti @ Dhanauri, P.S. -
Charpokhari, Distt. - Bhojpur (Ara)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Moli Devi Wife of Bindesh Mishra @ Bindesh Kumar Mishra R/o Bihar
State Road Transport Campus Laheria Sarai, P.S. - Laheria Sarai, Distt. -
Darbhanga

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Aditya Nath Pandey, Advocate
For the Opposite Party/s	:	Mr. Manoj Kumar, APP
For the informant	:	Mr. Anshudhar Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 29-02-2024 Heard Mr. Aditya Nath Pandey, learned counsel

 appearing on behalf of the petitioner; Mr. Manoj Kumar,

 learned APP for the State and Mr. Anshudhar Sharma, learned

 counsel for the informant.

2. The petitioner seeks pre-arrest bail in connection
with Mahila P.S. Case No. 53 of 2023 dated 15.05.2023
registered for the offence(s) punishable under Sections 498(A),
323 of the Indian Penal Code.

3. As per the allegation made in the FIR, while the



petitioner was posted on the post of Account Officer in the office of Bihar State Road Transport Corporation, Darbhanga, the informant, who has claimed herself to be the wife of the petitioner, has lodged a case of demand of dowry and for non-fulfillment of same, petitioner assaulted her.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner was never married with the informant/opposite party no.2 and to take undue advantage, she has implicated the petitioner in a false case on the alleged ground that he has outraged her modesty and assaulted her after solemnizing marriage for non-fulfillment of demand of dowry. Learned counsel further submitted that the petitioner has given details about the conduct of the opposite party no.2 by filing supplementary affidavit and has been able to inform this Court that on frivolous ground of alleged marriage, she has admitted that earlier to the allegation made against the petitioner, that he is the husband of opposite party no.2, she was already married with two other persons, one after another, namely, Sanjay Yadav and Hukmdev Yadav and she has also lodged similar criminal cases just to extort money from them also. The opposite party no.2 has not chosen to dispute the same or deny in any manner by filing an affidavit in reply to the statement made in bail



application and supplementary affidavit filed on behalf of the petitioner. On these grounds, learned counsel submitted that petitioner is innocent and even on perusal of the case diary, minuscule evidence has been collected against the petitioner.

5. Mr. Anshudhar Sharma, learned counsel, has tendered his appearance on behalf of the opposite party no.2 and informs this Court that opposite party no.2 is almost an illiterate lady and she denies the allegation made against her in the supplementary affidavit and in want of any ID proof, she is not able to file her reply. However, he admits that the dispute between husband and wife can well be settled amicably, if the parties decide to resolve their dispute, considering the fact that the very factum of marriage has not been denied by the opposite party. However, he suggested that by mediation, the parties may resolve the dispute.

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

7. Having heard the rival submissions made on behalf of the parties and having perused the case diary, it appears that in paragraph no.6, a minuscule evidence is there on the basis of the statement of a watchman that opposite party no.2 was seen with the petitioner. In paragraph no.26 of the case



diary, it has been recorded by the investigating officer that the opposite party no.2 has not been able to produce any medical record with respect to the treatment after the alleged assault to have been committed by the petitioner. The petitioner had not been able to give the exact address of the opposite party no.2. I find from the fact, as well as, the material, which has come in course of investigation that complete ignorance has been shown by learned counsel appearing on behalf of the opposite party no.2 with respect to her address and the parentage. From the allegation made in the FIR, it appears that the informant claims herself to be the wife of the petitioner, however, the petitioner has denied the same. It has also been informed on behalf of the petitioner that the petitioner has also lost the job after the FIR has been lodged against him.

8. I am of the opinion that in absence of any evidence produced by either parties with respect to parentage of the opposite party no.2 and her parental address, it would be only in the interest of justice for the parties, that the respective parties may avail appropriate remedy, especially opposite party no.2, to first establishes her claim that she is legally wedded wife of the petitioner, after having obtained a decree of divorce from her erstwhile husband about which, in detail the petitioner has



brought on record by filing supplementary affidavit and thereafter, she may either choose to live along with the petitioner on the basis of decree passed by the competent court and thereafter take steps in accordance with law.

9. The petitioner, above named, who has already suffered his job, 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 S.D.J.M., Darbhanga in connection with /Mahila P.S. Case No. 53 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

10. However, the parties, if so desire, may also resolve their dispute amicably on any terms and conditions agreed by them.

11. At this stage, learned counsel for the petitioner has informed that opposite party no.2 is in habit of filing frivolous cases from several places.

12. This Court deprecates the same and for the similar offence, the petitioner should not be coerced on the basis of subsequent FIR.



13. With the aforesaid observation/direction, the application stands disposed of.

(Purnendu Singh, J)

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