

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85582 of 2023

Arising Out of PS. Case No.-470 Year-2022 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

Ashok Kumar, Son of Jivachh Das R/o Village- Bataprsa P.S.- Harlakhi, Dist.-
Madhubani. Petitioner/S

Versus

1. The State Of Bihar.
2. Rubi Devi Wife of Ashok Kumar, D/o Ram Prit Yadav R/o Village And P.S.-
Chrouta, District- Sitamari. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Advocate
For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 08-05-2024 Heard Mr. Shailendra Kumar Jha, learned Counsel
appearing on behalf of the petitioner and Mr. Ram Priya Sharan
Singh, learned APP appearing on behalf of the State.

2. As per the prosecution story, the petitioner had
assaulted the informant due to non-fulfillment of demand of
dowry.

3. Learned counsel appearing on behalf of the
petitioner seeks to withdraw the present application, considering
the fact that he will avail remedy in accordance with Section
41(1) Cr.P.C. in light of the law laid down by the Apex Court in
the Case of *Arnesh Kumar v. State of Bihar, (2014) 8 SCC*
273, which deals with the matter of unnecessary arrest under
Section 498A IPC, considering the fact that till date charge-
sheet has not been submitted.

4. Recently in the case of **Asfak Alam Vs. State of
Jharkhand & Anr. in Cr. Appeal No.2207 of 2023**, the Apex



Court issued a directive to circulate circulars, notifications and instructions aimed at ensuring strict adherence by police authorities and criminal courts to follow the guidelines laid down by the Apex Court in **Arnesh Kumar case (Supra)**.

5. The Hon'ble Supreme Court has made following observations:

“10. We are of the opinion that if the provisions of Section 41 CrPC which authorises the police officer to arrest an accused without an order from a Magistrate and without a warrant are scrupulously enforced, the wrong committed by the police officers intentionally or unwittingly would be reversed and the number of cases which come to the Court for grant of anticipatory bail will substantially reduce. We would like to emphasise that the practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 CrPC for effecting arrest be discouraged and discontinued.

11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following directions:

***11.1.** All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;”*

6. The concerned investigating authority must abide by the law laid down by the Apex Court in case of **Arnesh Kumar case (Supra)**, as well as, communication made by this



Court vide Circular Order No.01 of 2023.

7. Accordingly, the bail application stands disposed
of.

(Purnendu Singh, J.)

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