

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26298 of 2023

Arising Out of PS. Case No.-119 Year-2018 Thana- NASRIGANJ District- Rohtas

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GUDIYA DEVI @ RAMESHWARI KUMARI D/O RAJ KUMAR PRASAD
R/O VILLAGE- RAJPUR, P.S.- RAJPUR, DISTRICT- ROHTAS AT
SASARAM

... .. Petitioner/s

Versus

1. The State of Bihar
2. CHANDAN PRASAD SON OF BABAN SAH R/O VILLAGE-
NASARIGANJ, WARD NO.03, P.S.- NASARIGANJ, DISTRICT-
ROHTAS AT SASARAM

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Raghunandan Kumar Singh, Adv
For the State	:	Mr.Raj Ballabh Singh, APP
For the Opposite Party No.2:		Mr. Ravi Shankar Sahay, Adv. Mr. Kanhaiya Rao, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 03-01-2025 Heard the parties.

2. This is an application for quashing of the order dated 21.01.2019 passed by the learned SDJM, Bikramganj, Rohtas in Nasriganj PS Case No. 119 of 2018 for the offence punishable under sections 323, 341, 504, 506, 498(A) of the IPC and section 3/4 of the Dowry Prohibition Act as also for quashing of the order dated 17.11.2022 passed by learned SDJM, Bikramganj, Rohtas whereby the application of the petitioner for cancellation of bail of the Opposite Party No.2 has been rejected.



3. Nasriganj PS Case No. 119 of 2018 was lodged by the petitioner under sections 323, 341, 504, 506, 498(A) of the IPC and section 3/4 of the Dowry Prohibition Act alleging that she was married to the Opposite Party No. 2 on 23.11.2016 but was always tortured for dowry and later on, thrown out of the house.

4. The Opposite Party No.2 subsequently, took the legal route and after the dismissal of the anticipatory bail by the learned court below, came before Patna High Court and a Co-ordinate Bench in Cr. Misc. No. 78054 of 2018 passed an order on 04.01.2019 granting relief to him on the undertaking given by Opposite Party No.2 that he will be keeping his wife with full dignity and honour (Annexure-A to the petition).

5. Subsequently, the Opposite Party No.2 preferred appropriate petition before the learned court below in the light of the Patna High Court's order in which again, he gave the same undertaking. This was on 21.01.2019.

6. It is the case of the petitioner that she went along with her husband (Opposite Party No.2) but on 27.01.2019, she was beaten and thrown out of the house. Some photographs have been attached to support her case. Upon query, whether the police was informed and/or any FIR lodged, the answer is in



negative.

7. Subsequently, the petitioner preferred petition for cancellation of the anticipatory bail granted to the Opposite Party No. 2 before the court of learned SDJM, Bikramganj, (Rohtas) in G.R. No. 592 (Anneuxre-6). The same was taken up on 17.11.2022 and after recording the facts, the learned SDJM observed that *both the parties have their own logic to support their respective cases and whether they want to live together or separate, it has to be decided by them, though the Opposite Party no. 2 gave an undertaking before the Patna High Court, it seems that both have lost their faith in conjugal life and in that background, it would be appropriate that steps be taken for conclusion of trial at an earliest.*

8. The petition was, accordingly, disposed of.

9. This order has been challenged by the petitioner in the present petition besides the original order dated 21.01.2019 by which pursuant to the order of Patna High Court, the court concerned had granted relief.

10. Learned counsel for the petitioner submits that as Opposite Party No.2 failed to comply with the order of the Patna High Court of keeping her with full dignity and honour, the court concerned erred in not taking note of the fact that though



she was taken home, was beaten and thrown out. As such, he does not deserve relief as originally granted by the Patna High Court.

11. Learned counsel appearing on behalf of Opposite Party No.2, on the other hand, submits that there is no FIR to the said occurrence. In fact, the petitioner after coming to the house of the Opposite Party No.2 started throwing tantrums and herself chose to walk out of the house. Opposite Party No.2 also preferred a petition in this regard before the Nasriganj Police Station (Annexure-R/1) to the counter affidavit. His submission is that the trial court has rightly observed that it would be appropriate that the trial is concluded at an earliest. It is his further submission that Opposite Party No.2 shall be diligently appearing in the trial without any unnecessary adjournment and in case, he defaults, the court/the petitioner shall be free to take appropriate steps as he too wants conclusion of the trial. However, being a Government servant, the petitioner only wants to harass him by putting him in the jail so that the consequences in the service may take place.

12. This Court has gone through the facts of the case as also the materials on record and the submissions of the parties. It concurs with the observation of the court concerned



that since there is complete breakdown of the marriage between the parties, a case has been registered, the anticipatory bail was disposed of in the year 2019 with appropriate direction, in the light of which, the Opposite Party was granted relief, putting him behind bar after six years particularly, when the Opposite Party No.2 has given an undertaking before this Court that he shall be diligently appearing in the trial, in the opinion of the Court, is not justified.

13. In that background, no relief can be granted to the petitioner. She shall take steps for appearing before the trial court and is further well advised to take appropriate civil route which is/are available to her for grant of maintenance as till a divorce order is passed, she is legally wedded wife of the Opposite Party No. 2.

14. The petition lacks merit, dismissed.

(Rajiv Roy, J)

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