

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44105 of 2024

Arising Out of PS. Case No.-1742 Year-2021 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Md. Irshad Kuraishi @ Md. Irshad Quraishi S/O Ramjan Kuraishi @ Ramjan Quraishi R/O Mohalla-Chikpatti Christian Quarter, P.S. Bettiah Town, Distt- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arzoo Praween D/O Jugnu Kuraishi R/O Village Nakchhed Tola, P.S. Motihari Town, Distt-East Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Brajesh Kumar Singh, Advocate
For the State	:	Mr.Ajit Kumar, APP
For the OP No.2	:	Mr. Madhurendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 10-02-2025 Heard Mr. Brajesh Kumar Singh, learned counsel appearing on behalf of the petitioners, Mr. Ajit Kumar, learned APP for the State and Mr. Madhurendra Kumar, learned counsel for O.P.no.2.

2. Petitioner seeks regular bail in connection with Trial No.2565/2022 arising out of Complaint Case No.C-1742, registered for the offences punishable under Sections 323, 498(A), and 406/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

3. Time and again, the Apex Court has held that “Marriage is not an ordinary contract, which can be judged by the strict adherence to the terms and conditions. The Society and the Courts are under obligation to resolve the strained matrimonial relationship between the parties.”



4. “Institution of marriage occupies an important place and plays an important role in the society. Despite the increasing trend of filing the Divorce proceedings in the courts of law, the institution of marriage is still considered to be a pious, spiritual and invaluable emotional life-net between the husband and the wife in the Indian society. It is governed not only by the letters of law but by the social norms as well. So many other relationships stem from and thrive on the matrimonial relationships in the society. Therefore, it would not be desirable to accept the formula of “irretrievable break down of marriage” as a strait jacket formula for the grant of relief of divorce.”

5. The action of the petitioner has subjected the complainant too much cruelty and now he has filed divorce case, as has been informed in supplementary affidavit filed on behalf of the petitioner in paragraph no.2. At the same time, the petitioner is behind the bar and instead of taking recourse to the remedy available to him immediately on 07.09.2021, the subsequent action can only be held to be ‘cruelty’ and the same has put the complainant to undergo deep mental agony. The assertions on the part of the petitioner that the complainant (wife) is unchaste are all factors, which lead to mental or legal



cruelty. As such, the action of the petitioner can not be denied that he has deliberately and wilfully ill-treated the complainant.

6. In view of the information contained in the supplementary affidavit filed on behalf of the petitioner that the petitioner, who is behind the bar, has filed a divorce petition before the competent civil court. The allegations, which are contained in paragraph no.10 of the supplementary affidavit and in several paragraphs of the bail application, can only be said to be wilful and continuous ill-treatment and indifference on the part of the petitioner that the Opposite Party no.2 is unchaste has led to mental agony to her, therefore, it would not be desirable to accept the formula of “irretrievable break down of marriage” as a strait-jacket formula for the grant of relief to the petitioner.

7. However, taking into consideration the social obligation on the part of the parties, the petitioner may seek written apology from O.P.no.2.

8. The present bail application is accordingly dismissed.

(Purnendu Singh, J)

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