

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39363 of 2024

Arising Out of PS. Case No.-812 Year-2023 Thana- DANAPUR District- Patna

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1. Nikee Upadhyay WIFE OF VED PRAKASH UPADHYAY R/O VILLAGE- MUBARAKPUR, P.S.- KRISHNAGAD, DIST-BHOJPUR PRESENTLY RESIDING AT INDU NIWAS, J.C. MALLICK ROAD, NEAR SHANTI TOWER, HIRAPUR, P.S.- DHANBAD, DIST- DHANBAD, JHARKHAND
 2. VED PRAKASH UPADHYAY Son of Late Mahendra Upadhyay R/O VILLAGE- MUBARAKPUR, P.S.- KRISHNAGAD, DIST-BHOJPUR PRESENTLY RESIDING AT INDU NIWAS, J.C. MALLICK ROAD, NEAR SHANTI TOWER, HIRAPUR, P.S.- DHANBAD, DIST- DHANBAD, JHARKHAND

... .. Petitioner/s

Versus

1. The State of Bihar
2. SUCHITRA KUMAR D/O VIVEKANAND PATHAK R/O MOHALLA- RAMNAGAR COLONY, GOLA ROAD, P.S.- DANAPUR, DIST- PATNA

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 48848 of 2024

Arising Out of PS. Case No.-812 Year-2023 Thana- DANAPUR District- Patna

Vishnu Shankar Upadhyay @ Bishnu Shankar Upadhyay SON OF SRI PRAKASH UPADHYAY VILLAGE- MUBARKPUR, PS- KRISHNAGAD, DIST- BHOJPUR, P/A- INDU NIWAS, J.C. MALLICK ROAD, NEAR SHANTI TOWER, HIRAPUR, PS- DHANBAD, DIST- DHANBAD, JHARKHAND

... .. Petitioner/s

Versus

1. The State of Bihar
2. SUCHITRA KUMARI DAUGHTER OF VIVEKANAND PATHAK VILLAGE- RAMNAGAR COLONY, GOLA ROAD, PS- DANAPUR, DIST- PATNA

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 39363 of 2024)

For the Petitioner/s : Mr. Madhav Raj, Advocate

For the Opposite Party/s : Mr. Akshay Lal Pandit, A.P.P.

(In CRIMINAL MISCELLANEOUS No. 48848 of 2024)

For the Petitioner/s : Mr. Madhav Raj, Advocate

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, A.P.P.



CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

10 14-07-2025 Heard Mr. Madhav Raj, learned counsel for the petitioners, Mr. Akshay Lal Pandit, learned Additional Public Prosecutor for the State in Cr. Misc. No. 39363 of 2024 and Mr. Dr. Kumar Uday Pratap, learned Additional Public Prosecutor for the State in Cr. Misc. No. 48848 of 2024.

2. The petitioners are apprehending their arrest in connection with Danapur P.S. Case No. 812 of 2023, F.I.R. dated 15.06.2023 for the offences punishable under Sections 498A/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

3. According to prosecution case, the informant solemnized marriage with the petitioner, namely, Vishnu Shankar Upadhyaya in the year 2021 according to Hindu Rites and rituals. It is further alleged that on the second day of her marriage, she along with her husband went to his uncle's house in Dhanbad, thereafter, they started to make allegation of dowry items of bad quality and wanted to exchange the item by creating pressure upon informant to which informant denied the same, then the aforesaid persons assaulted the informant and pushed her because of that she received injury on her stomach. She further alleged that her husband took her to Sangita Health



Care, Hirapur, Dhanbad got the uterus cleaned. She was advised to blood transfusion but her husband did not complete her treatment. Accordingly, the F.I.R.

4. Learned counsel for the petitioners submit that petitioners have clean antecedent and they have falsely been implicated in the present case. The allegation as alleged in the F.I.R. is false and fabricated and the petitioners have not committed any offence as alleged in the F.I.R. Pursuant to the direction, dated 05.09.2024 passed in Cr. Misc. No. 48848 of 2024, both the parties had appeared before the learned Mediator and both the parties have signed the terms of settlement mutually agreed upon by them. As per Memorandum of Agreement dated 13.12.2024, the petitioner, namely, Vishnu Shankar Upadhyay @ Bishnu Shankar Upadhyay has paid Rs. 7,00,000/- (Rupees Seven Lakhs) to the opposite party no. 2 as one time settlement and opposite party no. 2 has given written undertaking that she has no claim against the petitioner in any manner whatsoever, apart from that, the opposite party no.2 has also agreed to take appropriate step for withdrawal of the respective cases which is mentioned in paragraph-6 of the Memorandum of Agreement dated 13.12.2024 and both the parties have also agreed to file the mutual divorce petition under



Section 13(B) of the Hindu Marriage Act before the competent Court of Law.

5. Learned counsel for the informant submits that the agreement has been executed in the presence of opposite party no. 2 and she shall abide the terms of memorandum of agreement dated 13.12.2024.

6. Considering the aforesaid facts and circumstances and both the parties are ready to file a petition under Section 13(B) of the Hindu Marriage Act before the competent Court of Law within a period of four weeks from today, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate I, Danapur in connection with Danapur P.S. Case No. 812 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure /Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita and with other following conditions:-

i. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court



and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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