

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33901 of 2020

Arising Out of PS. Case No.-287 Year-2015 Thana- PAROO District- Muzaffarpur

Vijay Kumar Yadav, aged about 27 years, Male, Son of Mahendra Ray
Resident of Mahamadpur Borhan, P.O.- Paroo, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kamini Singh, aged about 25 years, Female, Daughter of Sri Naval Kishore Singh Resident of Thatiya, P.O.- Jasauli, P.S.- Kathaiya, District- Muzaffarpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Singh No. 1, Advocate
For the State	:	Ms. Renu Kumari, APP
For the Informant	:	Mr. Priyesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ajay Kumar Singh No.1, learned counsel for the petitioner; Ms. Renu Kumari, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Priyesh Kumar, learned counsel for the opposite party no. 2.

3. The petitioner apprehends arrest in connection with Paroo PS Case No. 287 of 2015 dated 17.12.2015, instituted under Sections 493/376/341/323/504/506/34 of the Indian Penal Code.

4. The allegation against the petitioner is that he had



married the opposite party no. 2 in a temple on 06.04.2014 and had kept the opposite party no. 2 at a rented place and they lived together as husband and wife and thereafter, on 26.04.2014, the petitioner went for training in the Army but kept the informant in a room at Muzaffarpur. Thereafter, it is alleged that the petitioner returned and kept the informant at a hotel at Hajipur and then went to Ahmadnagar in Maharashtra for training in the Army and the informant became pregnant. Further, it is stated that the petitioner kept her in hotel and came from time to time and on 31.07.2015 had called her to his house and she was assaulted by the accused persons and driven out and also threatened. However, on 20.08.2015 she was called by the petitioner and kept in a rented room at Hajipur and used to send maintenance money to her but later stopped giving any money and also did not talk on phone.

5. Learned counsel for the petitioner submitted that he is in the Army and, thus, has to keep going to his place of posting and that the allegations made are not correct. It was submitted that he is ready to keep the informant and the child with him with full dignity, honour and security.

6. On 13.07.2021, in view of the statement made by the opposite party no. 2 in her counter affidavit that the



petitioner had married another girl, namely, Arti Kumari @ Baby, the Court had asked learned APP to obtain the legible photocopy of the entire case diary of the present case as well as a detailed report with regard to whether the petitioner had married the other lady. The same has been submitted by the Senior Superintendent of Police, Muzaffarpur.

7. When the Court asked learned counsel for the petitioner as to how on 13.07.2021, he had taken a stand that the allegation of having performed second marriage is incorrect and it is only the suspicion of the opposite party no. 2, as has been recorded at paragraph no. 8 of the order dated 13.07.2021, he submitted that such stand was as per his instructions.

8. Learned APP, placing the report of the Senior Superintendent of Police, Muzaffarpur, stated that the enquiry has revealed that the petitioner has married the said lady on 15.07.2016 and there is also a child born out of the wedlock.

9. Learned counsel for the petitioner submitted that no offence is made out under Section 376 of the Indian Penal Code as the parties were married to each other. Further, he reiterated that the petitioner was ready to keep the opposite party no. 2 with him.

10. Learned APP, from the case diary, submitted that



witnesses have supported the fact of marriage of the petitioner with opposite party no. 2 and in fact one of the witnesses on 17.12.2015 had stated that the parents of the petitioner had at that time taken a stand that the opposite party no. 2 had never been brought by their son to the matrimonial home, but if the same was correct, they would not have any objection to accepting the opposite party no. 2 as the wife of their son.

11. On this, when the Court asked learned counsel for the petitioner as to under what circumstances, the petitioner married another girl on 15.07.2016, learned counsel for the petitioner had no answer.

12. Learned counsel for the opposite party no. 2 submitted that she has also been blessed with a child and though the petitioner used to send money earlier, but now no maintenance is being given to her due to which she is in dire financial conditions and is unable to manage herself as well as the child, having been deserted by the petitioner.

13. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that from the conduct of the petitioner and the materials which have come during investigation as well as the report from the Senior Superintendent of Police, Muzaffarpur,



the conduct of the petitioner does not inspire confidence. The fact of having performed marriage with the opposite party no. 2 has been found correct as also birth of a child from her and thereafter again the petitioner having married speaks volumes. Further, learned counsel for the petitioner has not denied that after sending money to the opposite party no. 2 for herself and the child, the petitioner has stopped doing so. The Court finds his stand that he is ready to keep the opposite party no. 2 with him to be a hollow one as there cannot be two wives living in the same household and further the legality of marriage of the petitioner with the other lady is under question.

14. Thus, taking an overall view in the matter, the Court is not inclined to grant pre-arrest bail to the petitioner.

15. Accordingly, the petition stands dismissed.

16. Interim protection granted to the petitioner under order dated 16.03.2021, stands vacated.

(Ahsanuddin Amanullah, J)

Anjani/-

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