
(2015) 12 JH CK 0006

In the Jharkhand High Court

Case No : A.B.A. Nos. 2164 and 1466 of 2015

Arnab Chakraborty and Others

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 10-12-2015

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 313, 498A

Citation : (2015) 12 JH CK 0006

Hon'ble Judges : Rongon Mukhopadhyay, J.

Bench : Single Bench

**Advocate : M.M. Pal, Sr. Advocate and Mahua Palit, Advocate, for the Appellant;
Vijay Shankar Prasad, A.P.P., for the Respondent**

Final Decision : Dismissed

Judgement

Rongon Mukhopadhyay, J.—Since both these anticipatory bail applications arise out of same F.I.R., they are being disposed of by this common order.

2. Heard Mrs. M.M. Pal, learned Sr. Counsel for the petitioner in A. B.A. No. 2164 of 2015, Mr. R.C.P. Sah, learned counsel for the petitioners in A.B.A. No. 1466 of 2015, Mr. Vijay Shankar Prasad, learned A.P.P. for the State and Mr. Awanish Ranjan Mishra, learned counsel for the informant.

3. Petitioners have prayed for grant of anticipatory bail, as they are apprehending their arrest in connection with Doranda (Argora) P.S. Case No. 735 of 2014 (G.R. No. 6938 of 2014) registered for the offences punishable u/s. 498A/313 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

4. The allegation made in the F.I.R. is to the effect that the marriage of the petitioner in ABA 2164 of 2015 was solemnized with the informant on 14.8.2014 and the marriage was got registered on 30.5.2014 in Kolkata. The allegations have been levelled against the accused persons with respect to the cruelty and torture alleged to have been suffered by the informant. It has been stated in the

written report that there was a persistent demand made by the accused persons for providing a flat at Bangalore and the informant had shown her inability for which she was abused and subjected to assault by the accused persons. It has also been alleged that the informant had become pregnant and the accused persons were putting pressure upon her to get her pregnancy terminated for which she was also taken to a Doctor, but on resistance made by the informant, she was struck on her stomach, which led to a miscarriage. The informant came to Ranchi on 22.10.2014, where she got herself treated by a Doctor. Allegations have also been levelled that kerosene oil was sprinkled upon the informant by her mother-in-law in order to set fire upon her. It has also been alleged that the entire jewellery, certificates and other articles of the informant were kept by the petitioners.

5. Mrs. M.M. Pal, learned senior counsel for the petitioner in ABA No. 2164 of 2015, has submitted that the petitioner is the husband and the allegations which have been levelled in the F.I.R. are general and omnibus in nature. It has further been submitted that after a few months of the marriage, a suit for dissolution of marriage under the Special Marriage Act, 1954 was instituted by the petitioner on 21.11.2014 for declaring the marriage to be null and void before the learned District Judge at Alipore, South 24 Paragana (W.B.) and after receiving summons on 16.12.2014, the F.I.R. was instituted on the very next day i.e. 17.12.2014. It has also been submitted that the F.I.R., instituted against the petitioners, is by way of retaliation to the suit for declaring the marriage null and void, filed by the petitioner. Learned senior counsel further submits that an improbable story has been created in the F.I.R. by the informant with respect to her miscarriage which would be evident from the prescription of the Doctor which depicts bleeding suffered by the informant since last 5 days in the prescription dated 22.10.2014, whereas the alleged incident as per own saying of the informant is said to have taken place on 19.10.2014. It has further been submitted that the Doctor who had treated the informant is the Ex-Dy. Chief Medical Officer (E.N.T. Department) and considering the fact that the informant had suffered an alleged miscarriage, it was but natural for her to have visited a gynecologist who is supposed to be specialized in such matters. Her being treated by the concerned Doctor shows the falsity of allegation of miscarriage against the petitioner and the other accused persons. It has also been submitted that on having apprehension that the petitioners may falsely be implicated in a criminal case, information was given to Bidhannagar East Police Station on 9.1.2014 and 22.11.2014.

6. Mr. R.C.P. Sah, learned counsel for the petitioners in ABA No. 1466 of 2015, has submitted that the petitioner No. 1 is the mother-in-law and the petitioner No. 2 is the father-in-law of the informant. It has further been submitted that they have falsely been implicated in the present case without there being any specific allegation against them. He also submits that both the petitioners are teachers. Mr. Sah has basically reiterated what has been submitted by Mrs. Pal appearing in ABA No. 2164 of 2015.

7. Learned counsel appearing for the informant has opposed the prayer for anticipatory bail of the petitioners and has referred to the F.I.R. to highlight the manner of torture and cruelty meted out to the informant by the accused persons. It has also been submitted that there was a demand of dowry on the part of the accused persons inasmuch the accused persons had put pressure upon the informant for purchasing a flat at Bangalore and on refusal, she was severely beaten and tortured. It has also been submitted that the medical prescription, which has been brought on record by the informant suggests that the treating Doctor was an MBBS Doctor and merely she being an Ex-Dy. Chief Medical Officer (E.N.T. Department), the same does not substantiate the claim that she cannot treat a case of miscarriage, as she was having sufficient experience, being a lady Doctor in the case of miscarriage also. Learned counsel further adds that some part of the allegations made in the F.I.R. can be corroborated from the suit filed for declaring the marriage to be null and void by the petitioner/husband of the informant.

8. Mr. Vijay Shankar Prasad, learned APP appearing for the State has submitted that several witnesses have supported the factum of demand of flat and assault upon the informant. He has referred to Para-6 of the case diary which contains the statement of the father of the informant. It has also been submitted that statement of several independent witnesses have also been recorded at Para-15, 21, 22, 22 and 24, which suggests that the incident of torture and demand of dowry had actually taken place and in view of the corroboration made by the witnesses with respect to the allegation made against the petitioners, they do not deserve the privilege of anticipatory bail. It has also been submitted that the Dy. S.P. in his supervision report found the case to be true and so has the Superintendent of police.

9. The petitioner in ABA 2164 of 2015 had filed a suit for declaring the marriage null and void on 21.11.2014. The summons were issued and the same were received on 16.12.2014 and on the very next day on 17.12.2014, the F.I.R. was instituted. From the recital of the written report, it appears that the incident of causing assault upon the informant leading to her miscarriage occurred on 19.10.2014. It further appears that the claim of the petitioners with respect to the prescription of the Doctor that the Doctor was an E.N.T. specialist is negated solely on the ground that the Doctor had the necessary degree to treat a patient suffering such injury, as in the case of the informant. In such circumstances, therefore the prescription of the Doctor dated 22.10.2014 cannot be brushed aside solely on the said ground. The prescription does suggest that an incident had taken place in which the informant was at the receiving end, leading to her miscarriage. It therefore cannot be concluded that the petitioners did not have a role in the assault or the torture meted out to the informant. Apart from the above, the F.I.R. also reveals that there was an attempt made by the in-laws of the informant to cause burn injury to the informant by sprinkling kerosene oil over her.

10. All these facts coupled with the prescription of the Doctor do suggest the involvement of the petitioners in the commission of the offence. In such circumstances, I am not inclined to grant anticipatory bail to the petitioners. Accordingly, the prayer for anticipatory bail of the petitioners is rejected.