
(2020) 09 PAT CK 0008

In the Patna High Court

Case No : Criminal Miscellaneous No. 78676 Of 2019

Jalaluddin Mian @ Jokhan Mian

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 02-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 498A
Dowry Prohibition Act, 1961 — Section 3, 4
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2020) 09 PAT CK 0008

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Umesh Chandra Verma, Gauri Shankar Gupta, Asif Kalim

Final Decision : Disposed Of

Judgement

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.
2. Heard Mr. Umesh Chandra Verma, learned counsel for the petitioner; Mr. Gauri Shankar Gupta, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Asif Kalim, learned counsel for the opposite party no. 2.
3. The petitioner apprehends arrest in connection with Complaint Case No. C-1457 of 2018 dated 24.07.2018, instituted under Sections 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.
4. Pursuant to notice, learned counsel has appeared for the opposite party no. 2, who is the complainant and father-in-law of the petitioner.
5. The allegation against the petitioner is that after torture and assault, the wife was turned out of the matrimonial home along with a daughter, due to non-fulfillment of demand of dowry.

6. Learned counsel for the petitioner submitted that the allegation may not be taken to be true at face value because in a relationship when two families are involved, there are many issues for which both the sides are equally responsible. However, since the matter relates to marital relationship of a husband and wife and there being a daughter also, learned counsel submitted that the petitioner is ready to keep the wife and the daughter with him in the matrimonial home with full dignity, honour and security.

7. At this juncture, when the Court called upon learned counsel for the opposite party no. 2 for a response, he submitted that the opposite party no. 2 as well his daughter are ready for the parties to resume their conjugal relationship in the matrimonial home. However, he submitted that due to the bitter past experience, the Court may impose safeguards.

8. Learned APP also submitted that the Court may facilitate such reconciliation.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (Twenty Five thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Sadar, Motihari, East Champaran in Complaint Case No. C-1457 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

10. As agreed between the parties, the petitioner, within two weeks from today, after getting in touch with the opposite parties no. 2 and 3, shall work out the date and time when he, along with one or two of his family members, will go to the house of the opposite parties no. 2 and 3, from where his wife and daughter shall be brought to the matrimonial home. At the time of appearing before the Court below for being released on bail, in terms of the present order, petitioner shall give an undertaking before the Court below that he would keep the wife (opposite party no. 3) as well as his daughter with him in the matrimonial home with full dignity, honour and security and shall also provide for their needs besides giving them adequate cash in hand for their personal/miscellaneous expenses. He shall also undertake that there shall be no interference in the opposite party no. 3 meeting her relatives, talking to whom she wants and also going to her parents' place without any let or hindrance, either by the petitioner or his family members.

11. If there is any violation of such terms and conditions, the opposite parties no. 2 and 3 are at liberty to file a petition before the Court below bringing on record such violation and the Court concerned, after hearing the petitioner shall pass appropriate orders, latest within three weeks from filing of such petition, and if it is found that the allegations are correct, the bail bonds of the petitioner shall be cancelled.

12. The opposite party no. 2 also shall not interfere, without due justification, in

the matrimonial relationship of the petitioner and opposite party no. 3. The opposite party no. 3 shall also ensure that she discharges her matrimonial obligation towards the petitioner and also gives due respect to his other family members.

13. Before parting, the Court would observe that the petitioner, before coming to take the opposite party no. 3 and his daughter to the matrimonial home, will fix a date and time in advance, as has been agreed by learned counsel for the opposite party no. 2. The opposite parties no. 2 and 3 and their family members shall ensure that the petitioner and the persons who come with him are given due respect and courtesy and there should not be any unpleasantness from both the sides.

14. The application stands disposed off in the aforementioned terms.