

(2020) 10 PAT CK 0022

In the Patna High Court

Case No : Criminal Miscellaneous No. 78068 Of 2019

Md. Shamsad @ Mir Samsad

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 06-10-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 341, 354B, 379, 498A, 504

Citation : (2020) 10 PAT CK 0022

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Anil Prasad Singh, Pramod Kumar Pandey, Md. Naushaduzzoha

Final Decision : Dismissed

Judgement

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.
2. Heard Mr. Anil Prasad Singh, learned counsel for the petitioner; Mr. Pramod Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Md. Naushaduzzoha, learned counsel for the opposite party no. 2.
3. The petitioner apprehends arrest in connection with Forbesganj (Simraha) PS Case No. 153 of 2019 dated 15.02.2019, instituted under Sections 341, 323, 354B, 498A, 379, 504/34 of the Indian Penal Code.
4. The allegation against the petitioner, inter alia, is of torture, assault and also of throwing the informant out of the matrimonial home after taking away the personal jewellery worth Rs. 45,000/- given to the informant by her father.
5. Learned counsel for the petitioner submitted that the allegation of being in a drunken state and assault is false, especially when there is prohibition in the State of Bihar. It was submitted that the informant is working in a factory. It was submitted that the informant had earlier filed Complaint Case No. 2633C of

2013, against the petitioner and on the basis of compromise, the petitioner had got bail and the informant had also returned to the matrimonial home but again she has herself left the matrimonial home.

6. Learned APP submitted that the petitioner has tortured and thrown out the informant, who is his wife, from the matrimonial house.

7. Learned counsel for the informant submitted that there are two sons and two daughters born out of the wedlock to the petitioner and all of them have been left without any support. It was submitted that initially also on assurance given by the petitioner that he would keep them well, she had compromised the case but again the petitioner had started his old activity of torture and assault and most importantly, he had married another woman. It was submitted that the informant is not being supported by the petitioner in any way despite it being the responsibility of the petitioner to support the wife and the children. Learned counsel submitted that the petitioner has been abusing and torturing her and also has kept back the personal jewellery given to her by her father at the time of marriage worth Rs. 45,000/-. Learned counsel submitted that the allegations are very natural and there is nothing to indicate that they are cosmetic or exaggeration or imaginary. It was submitted that even otherwise, a woman having four children would not take the extreme step of filing a case against the husband which effectively shuts out all doors and in the present case also in Mediation, the informant was ready either for a one time settlement or till the time a decision was not reached in the maintenance case filed by the informant for grant of reasonable amount to take care of herself and her four children, who at present are not getting a single rupee from the petitioner.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, the application stands dismissed.