

(2008) 07 JH CK 0003
Jharkhand High Court
Case No: None

Manoj Kumar Goswami

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision: July 21, 2008

Acts Referred:

- Penal Code, 1860 (IPC) - Section 307, 323, 328, 34, 406

Citation: (2008) 3 JCR 552

Hon'ble Judges: Dilip kumar sinha, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

D.K. Sinha, J.

Petitioner Manoj Kumar Gowsami is an accused for the alleged offence under Sections 498-A/406 of the Indian Penal Code that he perpetuated torture to his wife (complainant) on account of non-fulfillment of demand of dowry and for retaining her stridhan.

2. As the petitioner Manoj Kumar Goswami had expressed his willingness to keep his wife (complainant) with full dignity and honour, he was admitted to provisional bail till 1st of May. 2008 by this Court in C.P. Case No. 427 of 2007 calling upon the petitioner and the complainant to appear on 1st of May, 2008 before a Bench of this Court. Both appeared on the date fixed and were again asked to appear in the chamber on 8.5.2008 for conciliation.

3. During conciliation between the parties in the chamber, the complainant-opposite party No. 2 Sweta Goswami expressed her apprehension that she might be assaulted, humiliated and driven out from her matrimonial home by the petitioner if she be asked to go to her matrimonial home though she expressed her fervent desire to live with her husband-petitioner for leading a happy conjugal life.

4. The petitioner herein undertook by undertaking and promising his wife-opposite party No. 2 Sweta Goswami in the chamber of undersigned in presence of the lawyers of both sides that he would keep her with all dignity and honour and would not create any situation for complain against him in future, failing to which he would face the consequence.

5. This Court having been satisfied with the contents of the affidavits, duly sworn by the parties in the form of undertaking, provisional bail granted to the petitioner Manoj Kumar Goswami was extended till next date for two months by putting him under surveillance with respect to his behaviour and conduct with his wife-opposite party No. 2 who had expressed her willingness to go with him in view of his promise and undertaking.

6. This case was fixed for 8th of July, 2008 for further order in the chamber of the undersigned at 2.30 p.m. with the direction to the parties to appear in person on the date fixed, but could not be.

It was put up on 18.7.2008 on the counter-affidavit filed on behalf of the opposite party No.2 Sweta Goswami complaining serious allegation against the petitioner Manoj Kumar Goswami that on 1st of July, 2008 her husband (petitioner) on the pretext of giving medicine, administered poison to her and she was removed to Central Hospital at Dhanbad and admitted in the Intensive Care Unit (ICU) where she remained unconscious for four days and her life could be saved after great strive of the doctors attending her. On 5.7.2008, she gave her statement before the police giving rise to Katras (Tetulmari) P.S. Case No. 168 of 2008. lodged against the petitioner Manoj Kumar Goswami for the alleged offence under Sections 323/328/307/34 of the Indian Penal Code. She could not appear on the date fixed on account of her illness and the situation beyond her control.

7. On the other hand, supplementary affidavit has been filed on behalf of the petitioner on 18.7.2008, by giving a different version that on 1.7.2008 he had gone to Dhanbad for appearance before the Court of Principal Judge. Dhanbad in M.P. Case No. 97 of 2008. When he returned back from Dhanbad. he came to know from his neighbours that his wife had consumed poison and was admitted in the hospital. He immediately went there and provided best medical aid to her. Though he had kept her properly with full dignity and honour but under what circumstances she consumed poison in his absence was best known to her.

8. In the facts and circumstances, and under changed situation when the complainant-opposite party No. 2 has alleged that petitioner had administered poison to her by mixing it in the cup of tea and she was brought to the hospital and put in Intensive Care Unit (ICU) in precarious condition, I am not inclined and hence, provisional bail granted to the petitioner Manoj Kumar Goswami by order dated 21.4.2008 which was extended by order dated 8.5.2008 stands vacated with the direction to the petitioner to surrender in the Court concerned positively within a

week of this order, failing to which Sri Ramesh Chandra, Judicial Magistrate, 1st Class, Dhanbad or his successor shall be at liberty to issue processes against the petitioner in C.P. Case No. 427 of 2007 securing his arrest.

9. His prayer for bail is rejected.