

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Rev. No. 770 of 2023

Kiran Mishra, wife of Ramesh Kumar Mishra, R/o G.48, "O" Road, Bistupur,
PO and PS Bistupur, Town- Jamshedpur, District East Singhbhum.

.. ..Petitioner

--VERSUS--

1. The State of Jharkhand
2. Nisha Mishra, wife of Rakesh Kumar Mishra, daughter of S.K. Pandey,
R/o Duplex A/10, New Green City, Near Baluguma, Dimna, Mango, PO-
Mango, PS- Ulidih, Town- Jamshedpur, District East Singhbhum

... ..Opp. Parties

with

Cr. Rev. No. 767 of 2023

Rakesh Kumar Mishra, son of Manu Mishra, R/o G.48, "O" Road, Bistupur,
PO and PS: Bistupur, Town- Jamshedpur, District East Singhbhum

.. ..Petitioner

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2. Nisha Mishra, wife of Rakesh Kumar Mishra, daughter of S.K. Pandey,
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Mango, PS- Ulidih, Town- Jamshedpur, District East Singhbhum

... ..Opp. Parties

CORAM: HONBLE MR. JUSTICE RATNAKER BHENGRA

For the Petitioners : Mr. R.S. Mazumdar, Sr. Advocate;
Mr. Rohan Mazumdar, Advocate

For the State : Mr. Bhola Nath Ojha, SPP;
Mr. Manoj Kumar Mishra, APP

For the OP No.2 : Mr. P.A.S. Pati, Advocate;
Ms. Vani Kumari, Advocate

12/DATED: 12-09-2024

**IA No. 6600 of 2024 in Cr.Rev. No. 770 of 2023 and IA No.
6601 of 2024 in Cr. Rev. No. 767 of 2023**

On call, the learned counsel for the parties have appeared.

2. The present interlocutory applications have been filed on behalf
of the petitioners for exemption from surrender in connection with GR Case
No. 2815 of 2013 arising out of Bistupur PS Case No. 256 of 2013

3. The prosecution story is based on the typed complaint of the
informant namely Nisha Mishra, wherein she stated that she is the legally
wedded wife of the petitioner Rakesh Kumar Mishra and their marriage was
solemnized on 06.06.2010 at Bistupur as per Hindu rites and rituals. It is
further case of the informant that since the day she entered into her in-laws'

house after marriage, the accused persons started torturing her for bringing more dowry. They used to allege her for bringing insufficient and inferior quality marriage gift for a Chartered Accountant. They also used to threaten her of dragging out, if she will not bring sufficient dowry as per their reputation and choice. The accused were demanding Rs. 20 lakhs from her father as ground to allow her to remain at her matrimonial home. She was also used to force to perform daily chores of domestic work like maid servant. Every now and then she was subjected to physical as well as mental cruelty by all the accused persons for demand of dowry.

4. Learned counsel for the petitioners further submitted that the Opposite Party No. 2 and her son had also filed a maintenance case bearing Original Maintenance Case No. 102 of 2018 before the court of learned Principal Judge, Additional Family Court, Jamshedpur against the husband Rakesh Kumar Mishra, whereby learned court had awarded maintenance of Rs. 45,000/- to the Opposite Party No. 2 and her son vide judgment dated 17.07.2023. It is further stated that petitioner Rakesh Kumar Mishra and the Opposite Party No.2(wife) living separately since 2016 and since then, Rakesh Kumar Mishra is paying the monthly maintenance amount to the tune of Rs.20,000/- (approx.) to the Opposite Party No.2 till filing of the maintenance suit in the year 2018. It is further stated that petitioner Rakesh Kumar Mishra has been duly complying with the judgment dated 17.07.2023 and giving regular maintenance to opposite party No. 2 and her son.

5. The learned counsel for the petitioners further submitted that besides the aforesaid maintenance amount the petitioner Rakesh Kumar Mishra was also paying the school fees of his child till 2023. The learned counsel has further submitted that the petitioner husband Rakesh Kumar Mishra is ready to deposit additional amount of Rs. 5 lakh in the name of his son and wife. He has further submitted that petitioner Kiran Mishra being an old lady suffering from various ailments. The learned counsel has further stated that a rejoinder dated 20.8.2024 has been filed on behalf of the petitioners to the counter-affidavit filed by the opposite party No.2 and in this rejoinder petition it is stated that the opposite party no. 2 is residing in the house which is in the joint name of Rakesh Kumar Mishra and his brother, being Duplex consisting of 4 rooms, 2 verandah, balcony, portico, attached latrine, bathroom, garden, etc. The cost of duplex is about Rs. 70 lakhs.

The petitioners and her entire family members are deprived of their own residence. It is further stated that the Opposite Party No. 2 is also in possession of four-wheeler Zen Estilo worth Rs. 3.5 lakhs, a scooty (Activa) worth Rs. 65,000/-. The dress materials, household articles of the petitioners are still lying in the Duplex. Apart from Rs. 45,000/- as maintenance, arrears is also being paid for which 48 months has been given to pay arrears and Rs. 12,50,000/- has to be paid by August 2025.

6. The learned counsel for the petitioners has further stated today he came with demand draft of Rs. 12,70,000/- and one another demand draft of Rs. 60,000/- in the name of opposite party no.2, namely, Nisha Mishra which have been handed over to the learned counsel for the opposite party no.2 today in the court itself.

7. The learned counsel appearing on behalf of the opposite party no.2 has opposed the prayer for exemption from surrender and submitted that an amount of Rs. 16,50,000/- has to be paid in installment but demand draft which have been received by him is only for Rs. 13,30,000/- He has further stated that since August/September 2021 the petitioner Rakesh Kumar Mishra stopped paying the school fees of his son and the opposite party no.2 and her family members are paying the same which is annexed as Annexure-B to the counter-affidavit filed by the OP No. 2 in IA No. 6601 of 2024. He has further stated that petitioners are evading the process of law since 12.4.2023 and the learned court trial court has been pleased to issue non-bailable warrant of arrest against the petitioners. He has further stated that IA for exemption from surrender has been filed on 3.7.2024 after 12-13 months. He has further stated that ownership of the house is not in the name of the opposite party no.2 rather it is in the name of the petitioner Rakesh Kumar Mishra and his brother. He has submitted on instruction that the house is not in a good condition and the opposite party no.2 is not living in that house. The learned counsel for the opposite party no.2 has further stated that petitioner Kiran Mishra is not suffering from any grave ailment which can be considered as exceptional.

8. The learned counsel for the State has submitted that petitioner Kiran Mishra is aged about only 54 years and therefore she cannot be considered as old lady and only for granting exemption from surrender she is

shown as old lady.

9. Having heard the learned counsels for the parties, noted their submissions and the judgment passed by the Hon'ble Supreme Court in the case of “Vivek Rai and another v. High Court of Jharkhand through the Registrar General and others” reported in (2015) 12 SCC 86, I find that petitioner Kiran Mishra in her Interlocutory Application for exemption from surrendering has stated that she is suffering from various ailments, but, she has not stated specifically from which ailment she is suffering. Further, petitioner Rakesh Kumar Mishra, has been convicted by the two of the learned courts below. Hence, I do not find any exceptional circumstances to allow the prayer for exemption from surrendering and, therefore, IA No. 6600 of 2024 in Cr. Rev. No. 770 of 2023 and IA No. 6601 of 2024 in Cr. Rev. No. 767 of 2023 are dismissed.

10. The petitioners are directed to surrender before the learned court below within three weeks from today in connection with GR Case No. 2815 of 2013, arising out of Bistupur PS Case No. 256 of 2013.

(Ratnaker Bhengra, J.)

KNR