

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51891 of 2014

Arising Out of PS.Case No. -1086 Year- 2012 Thana -BHAGALPUR COMPLAINT CASE
District- BHAGALPUR

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Md. Imran, son of Md. Salauddin, resident of village - Daudchak, P.S. Habibpur, District - Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Sabnam, W/O Md. Imran, D/O Md. Israil, resident of Village-Khriban, P.S.-Jagdishpur, District-Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Janki Nandan Prasad, Advocate
For the State : Mr. Anil Prasad Singh (APP)
For O.P. No.2 : Mr. Md. Najmul Hoda, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 13-10-2015 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of Opposite Party No.2 as well as the learned counsel for the State.

As per the earlier order of this Court dated 22.9.2015, the petitioner and the Opposite Party No.2 are present in person. After much deliberations and interactions with them, it has emerged that the marriage in question is not likely to be continued as the petitioner has remarried. Out of the said second marriage, he is also having two children. The Opposite Party No.2, however, submits that she was eager to live with her husband but in view of the fact that there is another woman in

the house, she cannot accept the said situation and is not willing to go back to her matrimonial home.

The petitioner submits that in view of the fact that he is poor, though he had made an offer of ₹1,00,000/- (One lac) to the petitioner, yet on account of poverty and paucity of funds, the petitioner had to retract from his earlier statement and he was ready to give ₹50,000/-.

Whatever may be the history of the case, it is apparent that the present marriage will culminate in a divorce as there is no likelihood of any reconciliation.

In the event of such facts and circumstances, it is advisable that till the culmination and termination of marriage, the complainant-O.P. No.2 may be provided with an amount by the petitioner so that she may sustain herself in her maternal home. The petitioner is agreeable to the same and submits that at best, out of the earning of ₹6,000/- (Six thousand) per month which he gets as a Driver of a private vehicle, he will pay an amount of ₹2500/- (Two thousand five hundred) per month to be deposited by the 10th of each month in the court below and/or till such time O.P. No.2 provides with an account number in the court below so that the money may reach effectively without much strain.

In the present facts and circumstances, as existing on date, and till the termination of the marriage and/or final settlement between the parties, the petitioner will deposit the said amount. In the event of the petitioner making deposit of the first instalment on or before 10th of November, 2015, thereafter, let the petitioner, above named, in the event of his arrest or surrender before the court below be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Bhagalpur, in connection with Complaint Case No.1086 of 2012, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that if the petitioner defaults in payment of two instalments consecutively, it shall be open to Opposite Party No.2 to take appropriate steps in accordance with law, which includes moving this Court for modification/alteration of the order.

(Anjana Mishra, J)

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