

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11905 of 2012

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Akhtar Imam S/O Late Manzoor R/O Royal, Residency First Floor, Flat No. 103, Indrapuri, P.S- Shashtri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Arshiya Khatoon D/O Motiur Rahman And W/O Akhtar Imam R/O Royal, Residency First Floor, Flat No. 103, Indrapuri, Rajza Bazar (Samanpura), P.S- Shastri Nagar, Distt- Patna, Presently Residing At Vill- Malmal, P.S- Kaluahi, District- Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Shahab Khalil

For the Opposite Party/s : Mr. Ram Bachan Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

12/ 07-08-2015

Heard learned counsels for the petitioner,

State and the complainant.

This Court vide order dated 28.10.2013 directed for placement of the present application after disposal of Misc. Appeal No. 20 of 2013.

Counsel for the petitioner submits that the said appeal was filed against the order of maintenance passed in Matrimonial Case No. 139 of 2011. Now the said Misc. Appeal has been converted into Criminal Revision and the same is pending.

In the circumstances, the order dated 28.10.2013 is rescind.

The petitioner being the husband of the complainant is apprehending his arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner that the petitioner performed marriage with the complainant after the death of his first wife and subsequently divorced her as per the Muslim Rites. However, in pursuance to the order passed in Matrimonial Case No. 139 of 2011 the petitioner is making payment of Rs.5,000/- per month as maintenance to the complainant. The petitioner is a retired Civil Servant.

It is submitted by learned counsel for the complainant that the petitioner has not paid the maintenance amount since last five years.

This Court adjourned the matter vide orders dated 15.10.2012 and 16.01.2013 allowing the petitioner to file an affidavit with regard to quantum of one time settlement amount, but the said affidavit has not been filed.



It is further submitted by learned counsel for the petitioner that the petitioner is regularly making payment of maintenance amount, but if any amount has not been paid the petitioner make payment forthwith.

Considering the fact that the Misc. Appeal now converted into Revision Application, the said revision is filed against the maintenance order and there is nothing on record to suggest the likelihood of disposal of said revision, therefore, no useful purpose will be served in keeping the present application pending. Keeping in view of the nature of accusation and the petitioner being a retired Civil Servant, let the above named petitioner be released on anticipatory bail in the event of his his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Madhubani in connection with C.R. No. 1176 of 2011, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bonds of the petitioner shall be accepted by the learned court below on producing proof that



up to date maintenance amount has been paid.

The complainant will be at liberty to file application for cancellation of bail of the petitioner, if the petitioner defaults three consecutive occasions in making payment of maintenance amount.



DKS/

(Dinesh Kumar Singh, J.)

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