

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4246 of 2016

Arising Out of PS.Case No. -94 Year- 2015 Thana -MAHILA PS District-
EASTCHAMPARAN(MOTIHARI)

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Sandip Mishra @ Jalu Mishra Son of Gupta Nath Mishra, Resident of
Village- Sugaon, P.S.- Sugauli, District- East Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Archana Jha, Advocate

For the Opposite Party/s : Mr. Abhay Kumar Roy (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

10 15-12-2016

Heard learned counsels for the petitioner and the State.

The petitioner being the husband of the informant is apprehending arrest in a case registered for the offences punishable under Sections 341, 323, 506, 406 and 498A/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

Prosecution case is that the informant was married with the petitioner on 25.11.2012. Subsequently, two children were born out of the wedlock but thereafter torture was inflicted for non-fulfillment of dowry demand.

Counter affidavit has been filed on behalf of the informant stating therein that the petitioner kidnapped Tania Kumari, the sister of the informant, leading to registration of Motihari P.S. Case No.735/2015 with accusation under sections



363 and 366A of the Indian Penal Code. Though, subsequently in 164 Cr. P.C. statement the victim Tania Kumari stated that she performed marriage with the petitioner and by virtue of the said statement recorded under section 164 Cr.P.C. the petitioner was granted bail.

Learned senior counsel for the petitioner submits that the petitioner admits his marriage with the informant and birth of two children. The differences between the petitioner and the informant has widen to the extent that reconciliation is not feasible. However, the petitioner is ready to provide two rooms on the ground floor of the house owned by the mother of the petitioner situated in Mohalla- Chilbania under P.S.-Banjanria in the town of Motihari ward no.12. The petitioner further undertakes that the possession of the informant will not be disturbed at the behest of his family members. The petitioner is further ready to make payment of Rs.4,000/- per month to the informant from January, 2017 for welfare of the informant and two sons by depositing the same in the bank account of the informant by second week of every succeeding month.

It is submitted by learned counsel for the informant that it is difficult for the informant to maintain herself and two children in Rs.4000/- per month. Moreover, she is apprehensive



about getting possession of the two rooms. However, she is ready to accept the offer of the petitioner and undertakes to submit bank account number on affidavit before the learned court below within a period of three weeks.

Learned senior counsel for the petitioner further submits that the petitioner will give possession of two rooms as described above in possession of the informant within a period of four weeks from today and the possession of the petitioner will not be disturbed till joint family property will be partitioned. However, at the time of partition, the petitioner will see that the informant gets the said two rooms as her share.

Considering the present stand of the parties and to save the informant and children from any destitution and vagrancy with the lucking hope that the issue may be reconciled in future, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 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 the learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Mahila (Motihari) P.S. Case No.94/2015, subject to the conditions as laid down under Section 438(2)



Cr.P.C.

The aforesaid payment will be subject to any order being passed in matrimonial or maintenance proceeding or any other connected proceedings.

Three consecutive defaults in making payment or failure to give effect to the undertaking with regard to giving possession of two rooms or disturbing the possession of the informant from the said rooms will give liberty to the informant to file an application for cancellation of bail of the petitioner.

The present order will not preclude the parties to reconcile the issues otherwise.

Ashwini/-

(Dinesh Kumar Singh, J)

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