

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11732 of 2016

Arising Out of PS.Case No. -8 Year- 2015 Thana -MAHILA P.S. District- SAMASTIPUR

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Jitendra Kumar Yadav son of Fulo Prasad Yadav, Resident of Village- Jiur,
P.S.- Hasanpur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Gunjan Bharti Daughter of Ram Dular Rai and wife of Jitendra Kumar Yadav, Resident of Village- Mabbi, P.S. Rosera District- Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Adv.

For the Opposite Party/s : Mr. Anita Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 22-08-2016

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 498A, 341, 323, 379 and 504/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of the dowry demand.

It is submitted by the learned counsel for the petitioner that that the marriage has never been consummated between the petitioner and informant, statement to that effect has been made in para 9 of the petition, which reads as follows:-

“That the informant never spends a day with the petitioner or never lived in her alleged sasural due to this, the marriage has not been consummated.”

It is further submitted that the petitioner was minor on the date of marriage i.e. on 25.07.2008.

Notices were issued to opposite party no.2 vide order dated 10.03.2016. The office note dated 21.07.2016 reflects that notices were received by the father of opposite party no.2. Subsequently, a supplementary affidavit has been filed that opposite party no.2 is joint with her father. In the circumstances, let notices issued to opposite party no.2 deem to be validly served. However, none is appearing on behalf of opposite party no.2.

It is further submitted on behalf of the petitioner that since the marriage is admitted, the petitioner is ready to pay ₹1,000/- per month to the informant from October, 2016 by second week of every month by depositing the same in the bank account of the informant.

Considering the present stand of the petitioner and the fact that opposite party no.2 deliberately chose not to appear, 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 Addl. Chief Judicial Magistrate, 1st, Samastipur in connection with Women P.S. Case No. 08 of

2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The petitioner will serve a copy of this order to the informant within a period of three weeks when it is expected that the informant/opposite party no.2 will supply her bank account number to the petitioner by filing the same on affidavit before the learned court below.

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

Three consecutive defaults in making payment by the petitioner will give liberty to the informant to file an application for cancellation of bail of the petitioner.

If the informant/opposite party no.2 declines to accept the offer of the petitioner or fails to provide her bank account number to the petitioner then the aforesaid payment will be deposited before the learned court below which will be invested in some fix deposit scheme in connection with present case which will be subject to the result of the present case.

The present order in no way will preclude the parties to settle the issue otherwise.

(Dinesh Kumar Singh, J)

Amrendra/-

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