

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10278 of 2016

Arising Out of PS.Case No. -396 Year- 2015 Thana -MADHEPURA COMPALINT CASE District-
MADHEPURA

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1. Amit Banarjee @ Sonu S/o Late Utpal Banarjee, Resident of Mohalla-
Purani Bazar Narkatiyaganj, Ward No.-2, Police Station- Shikarpur,
District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ruchika Banarjee, W/o Amit Banarjee, D/o Dr. Ratan Chakravarti,
resident of Mohalla- Murliganj, Police Station- Murliganj, District-
Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan Sinha
For the Opposite Party/s : Mr. Shailendra Kumar-I(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 08-09-2016 The petitioner being husband of the complainant is apprehending his arrest in a complaint case wherein processes were directed to be issued after cognizance being taken for the offences under Sections 323, 498A of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

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

It is submitted by learned counsel for the petitioner that petitioner admits his marriage with the complainant but the petitioner has filed Matrimonial Suit No. 309 of 2014 with a prayer for divorce on 20.09.2014 and thereafter the present complaint was filed on 19.06.2015.

Hence, the petitioner is not in a position to keep the complainant.

On the joint prayer of the parties, vide order dated 26.07.2016 the matter was referred to the Mediation & Conciliation Centre of the Bihar State Legal Services Authority. The report of the Mediator at Flag-A dated 06.05.2016 reflects that the issue could not be resolved through the process of mediation.

It is submitted by learned counsel for the petitioner that in the alternative, petitioner is ready to make payment of Rs. 4000/- per month to the complainant from November, 2016, by depositing the same in the bank account of the complainant by second week of every consecutive month.

It is submitted by learned counsel for the complainant that marriage between the petitioner and the complainant is not in dispute. Though the petitioner has performed second marriage but even the complainant is ready to resume the conjugal life. The complainant is not ready to accept the offer of monthly maintenance amount of Rs. 4000/-

Considering the filing of matrimonial suit at earlier point of time and the present stand of the petitioner, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on anticipatory bail, on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like

amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Madhepura in connection with Complaint Case No. 396 of 2015.

The petitioner will deposit Rs. 4000/- per month before learned Court below when it is expected from the learned Court below to invest the amount to some fixed deposit scheme which will be subject to the result of the case.

It is open for the complainant to receive the aforesaid amount. If the complainant, at any point of time files any application expressing her willingness to accept the amount, then the said amount will be released in favour of the complainant.

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

If the complainant accepts the offer of the petitioner then in that eventuality, three consecutive defaults in making payment will give liberty to the complainant to file appropriate application for cancellation of bail of the petitioner.

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

(Dinesh Kumar Singh, J)

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