

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54864 of 2015

Arising Out of PS.Case No. -333 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Abishek Kumar @ Vivek @ Chote, Son of Late Raghuvir Saran
Srivastava, Resident of Mohalla- Diwan Mohalla- Pato Ki Bagh,
Hamampur, P.S.- Khajekallan District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Tanuja Srivastava, W/o Abhishek Kumar @ Vivek @ Chote, D/o
Janardan Pd, Resident of Mohalla- Diwan Mohalla- Pato Ki Bagh,
Hamampur, P.S.- Khajekallan, At present- Badi Patan Devi Road, P.S.-
Alamganj District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinod Pandey, Advocate
For the Opposite Party/s : Mr. C.Jawahar(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

5 22-08-2016 Learned counsel for the petitioner is permitted to
make correction in the petition during course of the day.

Heard learned counsel for the petitioner and the
State.

The petitioner being the husband of the
complainant is apprehending his arrest in a complaint case
wherein processes have been directed to be issued after
cognizance being taken for the offences punishable under
Sections 498A of the Indian Penal Code and 3/4 of the Dowry

Prohibition Act.

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

It is submitted by the learned counsel for the petitioner that petitioner admits his marriage with the complainant in 2009 and birth of a male child, but the petitioner has filed Matrimonial Suit No. 447 of 2012 with a prayer for divorce on 16.06.2012, thereafter the present complaint was filed.

The matter was referred vide order dated 11.04.2016 to the Mediation and conciliation Centre of the Bihar State Legal Services Authority. The report of the Mediator at Flag-A, dated 04.08.2016 reflects that the issue could not be resolved through process of mediation.

Petitioner and complainant are present.

Though, it is submitted by the learned counsel for the petitioner that in a maintenance proceeding the petitioner has been directed to make payment of Rs. 2,000/- per month to the complainant as interim maintenance from the date of filing of application i.e. 15.04.2013 and Rs. 7,000/- as litigation costs. The complainant has also been awarded Rs. 1,000/- per month towards the expenses of education of the minor child and Rs. 5,000/- lump sum amount for getting the child admitted in School. The petitioner was also directed to bear the expenses to be incurred during treatment/operation of the

complainant at P.M.C.H./ I.G.I.M.S./A.I.I.M.S., Patna. It is further submitted that the petitioner is making payment of maintenance amount to the complainant regularly as directed by the learned court below.

Learned counsel for the complainant submits that complainant is ready to resume the conjugal life. She is not satisfied with the quantum of maintenance amount awarded by the learned court below.

Considering the rival submissions of the parties, keeping in view of the fact that Matrimonial Suit was filed at earlier point of time and the learned court below has awarded maintenance though the complainant is not satisfied with the quantum of maintenance amount for which she is at liberty to challenge the order before the Superior Court or file appropriate application under Section 127 of the Cr.P.C., let the above named petitioner be released on anticipatory bail in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Patna City in connection with Complaint Case No. 333 of 2013, subject to conditions as laid down under Section 438(2) of the Indian Penal Code.

The bail bond of the petitioner shall be accepted on filing of proof with regard to payment of up to date

maintenance amount to the complainant.

The complainant will have liberty to file application for cancellation of bail of the petitioner if the petitioner defaults in making payment of maintenance amount for two consecutive occasions.

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

(Dinesh Kumar Singh, J)

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