

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22085 of 2016

Arising Out of Complaint Case No.-1411 Year- 2015 Thana -SARAN COMPLAINT CASE District-
SARAN

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Santosh Kumar Son of Rameshwar Prasad

.... Petitioner/s

Versus

1. The State of Bihar.
2. Arti Devi wife of Santosh Kumar, D/o Ramesh Sah

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Advocate

For the Opposite Party/s : Mr. Manish Kumar 2 (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 10-11-2016

Heard learned counsels for the petitioner and the State.

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

Basic accusation is of torture for non-fulfillment of dowry demand.

It is submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and birth of a male child. A statement has been made in paragraph no.12 of the petition that the complainant is not ready to live with the petitioner, but if she will live in proper way, then petitioner is

ready to live with her.

This Court, on joint prayer of the parties, vide order dated 15.09.2016, referred the matter to the Mediation and Conciliation Centre of the Bihar State Legal Services Authority. The report of the mediator dated 18.10.2016, kept at flag 'M' reflects that the issue could not be resolved through the process of mediation.

It is submitted by learned counsel for the petitioner that since the complainant deserted the petitioner, hence the petitioner filed Matrimonial Suit No.95/2015 on 26.05.2015 and, thereafter the present complaint was filed on 27.05.2015. At present the petitioner is not ready to keep the complainant due to her misconduct.

Learned counsel for the complainant submits that the complainant is ready to reside with the petitioner. Similar was the stand of the complainant before the mediation, but the mediation failed since the petitioner flatly refused to keep the complainant.

Learned counsel for the petitioner further submits that in alternative the petitioner is ready to make payment of Rs.4000/- (rupees four thousand) per month to the complainant from December, 2016 by depositing the same in the bank account of the complainant by second week of every succeeding month.

The counsel for the complainant, on instruction, submits that the complainant 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 two weeks.

Considering filing of matrimonial suit at earlier point of time and the present stand of the petitioner of making monthly payment in order to save the complainant for destitution and vagrancy with the lurking 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 SDJM, Saran at Chapra, in connection with Complaint Case No.1411/2015, 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.

Three consecutive defaults in making payment by the petitioner will give liberty to the complainant 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/-

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(Dinesh Kumar Singh, J)