

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10375 of 2016

Arising Out of PS.Case No. -14 Year- 2016 Thana -SAMASTIPUR MUFFASIL District-
SAMASTIPUR

- =====
1. Manoj Kumar Son of Shivjan Rai
 2. Shivjan Rai S/o Late Ram Avtar Rai
 3. Bholia Devi Wife of Shivjan Rai
 4. Nirmala Devi D/o Shivjan Rai
 5. Chunchun Kumari @ Chunchun Devi D/o Unknown All resident of village - Jitwarpur Nizamat, P.S. Mufassil, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.23798 of 2016

Arising Out of PS.Case No. -322 Year- 2015 Thana -SAMASTIPUR MUFFASIL District-
SAMASTIPUR

- =====
1. Manoj Kumar son of Shivjan Rai, Resident of village- Jitwarpur Nizamat (maslanchak), P.S. -Samastipur (M), District -Samastipur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.10375 of 2016)

For the Petitioner/s : Mr. Sachin Kumar

For the Opposite Party/s : Mr. Suresh Pd.Singh(App)

(In Cr.Misc. No.23798 of 2016)

For the Petitioner/s : Mr. Jitendra Narain Sinha

For the Opposite Party/s : Mr. Ansural Haque (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

5 22-08-2016 The petitioner Manoj Kumar (in both the applications) being husband of the informant and petitioner Nos. 2 to 5 of Cr. Misc. No. 10375 of 2016 being parents, sister of the petitioner Manoj Kumar and petitioner No. 5 being an

outsider are apprehending their arrest in a case registered for the offences punishable under Sections 323, 341, 354, 379, 504, 506/34 of the Indian Penal Code and Section 34 of the Prevention of Witch Practices Act.

The prosecution case is that the accused persons came to the house of the informant, abused her and asked to vacate the house. The informant was addressed as witch and she was forced to swallow human soil.

The petitioner Manoj Kumar (Cr. Misc. No. 23798 of 2016) being husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 498A, 323, 504, 506/34 of the Indian Penal Code.

The basic accusation is of torture.

It is submitted by learned counsel for the petitioner Manoj Kumar that he admits his marriage with the informant but the relationship got strained since the informant had illicit relationship with the younger brother of the petitioner namely Mukesh Kumar, as a result he has not been made accused by the informant. Initially Samastipur(M) P.S. Case No. 322 of 2015 was lodged with accusation under Sections 323, 341, 354, 379, 504, 506/34 of the Indian Penal Code and Section 34 of the Prevention of Witch Practices Act but when the family members except husband of the informant were granted anticipatory bail vide ABP No. 2210 of 2015 then



Samastipur (Mufassil) P.S. Case No. 14 of 2016 was maliciously lodged with frivolous accusation. The husband of the informant has also filed Matrimonial Suit No. 118 of 2015 with a prayer for divorce on 05.12.2015 though prior to that on 01.11.2015 Samastipur(M) P.S. Case No. 322 of 2015 was filed and the other case being Samastipur(Mufassil) P.S. Case No. 14 of 2016 was registered on 12.01.2016. It is further submitted that petitioner Manoj Kumar is making payment of maintenance of Rs. 3000/- per month to the informant in pursuance to the order passed by learned Principal Judge, Family Court, Samastipur in Maintenance Case No. 192 of 2015 vide order dated 16.03.2016. Hence, the petitioner Manoj Kumar is not in a position to keep the informant as wife at present.

It is submitted by learned counsel for the informant that though the informant is residing in the matrimonial house at present and ready to resume the conjugal life even today but the informant is being tortured and even after filing of the initial case under Section 498A I.P.C the accused persons humiliated her for getting the house vacated.

Considering the nature of dispute and the submission of the counsel for the petitioners that petitioners will not disturb the possession of the informant in the matrimonial house and petitioner Manoj Kumar will regularly make payment of the maintenance amount to the informant, let the petitioners, above named, in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Samastipur in connection with Samastipur(Mufassil) P.S. Case No. 14 of 2016(G.R. No. 81 of 2016)/Samastipur(Mufassil) P.S. Case No. 322 of 2015(G.R. No. 2656 of 2015), subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bonds of petitioner Manoj Kumar will be accepted in both the cases on filing a proof on affidavit before learned Court below with regard to the up-to-date payment of the maintenance amount.

The bail bonds of rest of the petitioners in Cr. Misc. No. 10375 of 2016 will be accepted on filing separate affidavit that they will not disturb the possession of the informant in the matrimonial house. The learned Court below will get the said affidavits transmitted to the concerned police station.

(Dinesh Kumar Singh, J)

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