

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13626 of 2016

Arising Out of PS.Case No. -955 Year- 2010 Thana -BUXAR COMPLAINT CASE District-
BUXAR

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Hakim Singh @ Hakim Yadav, S/o Thakur Yadav, resident of village-
Karwaniya, Police Station- Agiaon Bazar, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Phool Kumari Devi @ Tetra Devi, wife of Hakim Yadav, resident of
village- Karwaniya, Police Station- Agion Bazar, District- Bhojpur
(Ara), presently address-C/o Saryu Yadav, resident of village+Post
Office- Sheopur, Police Station- Nawanagar, District- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Roy, Advocate

For the Opposite Party/s : Mr. Shakir Ahmad(App)

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

6 01-12-2016 Heard learned counsel for the petitioner,
complainant 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 Section 498A of the Indian Penal Code and 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 and birth of child. It is further submitted that the



complaint was filed in the year 2010, but processes were never been served upon the petitioner, hence, he could not surrender before the court below. It is further submitted that petitioner is still ready to keep the complainant as wife with due dignity and honour. Statement to that effect has been made in para- 12 of the petition which reads as follows:-

“That any view of the matter the petitioner is ready to keep the complainant as a wife with full dignity and honour.”

The petitioner has not performed second marriage. Statement to that effect has been made in para-11 of the petition which reads as follows:-

“That it is stated that petitioner has not remarriage with any other lady and this allegation is also falsify from perusal of page 4 of complaint petition”.

The petitioner and complainant are present.

Learned counsel for the complainant submits that at present the complainant is not ready to accept the offer of the petitioner. She is apprehensive due to past conduct of the petitioner.

However, at present the complainant is only claiming the maintenance amount of Rs.5,000/- per month to the complainant and Rs. 2,000/- to the minor daughter of the complainant per month as directed by the Principal Judge, Family Court, Buxar vide order dated 8th August, 2016 in Maintenance Case No. 4M of 2011.



It is submitted by the learned counsel for the petitioner that petitioner has challenged the ex-parte order of maintenance by filing miscellaneous application, but he is ready to make payment of the said amount along with the arrears as the maintenance was directed Rs. 7,000/- per months from the 8th of August, 2016 within a period of three months. The said payment will be subject to any order being passed in Miscellaneous Case filed by the petitioner.

Considering the present stand of the parties, let the above named petitioner be released on provisional bail for a period of three months 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, Buxar in connection with Complaint Case No. 955C of 2010, subject to conditions as laid down under Section 438(2) of the Indian Penal Code.

The bail bonds of the petitioner will be accepted by the learned court below on filing proof with regard to deposit of 50% of the maintenance amount of Rs.7,000/- per month calculated from 8th of August, 2016 in the bank account of the complainant.

Learned counsel for the complainant submits that complainant undertakes to submit her bank account number on affidavit before the learned court below within a period of



two weeks and the rest 50% of the maintenance amount will be deposited by the petitioner within a period of three months.

The aforesaid payment will be subject to any order being passed by the concerned Principal Judge, Family Court, Buxar in Miscellaneous Case filed by the petitioner or by any superior court in matrimonial or maintenance proceedings.

Three consecutive defaults in making payment will give liberty to the complainant to file 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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