

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22326 of 2015

Arising Out of PS.Case No. -153 Year- 2012 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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1. Tuntun Mahto @ Tutun Mahato S/o Late Nandlal Mahto R/o Village
Sultanpur, P.S. Mohuddinagar, District Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dharmshila Devi W/o Tuntun Mahto R/o Village Sultanpur, P.S.
Mohuddinagar, District Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rishikesh Ojha

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

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

13 15-12-2016

Heard learned counsels for the petitioner and the State.

The petitioner being husband of the complainant is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken under Sections 323 and 498A of the Indian Penal Code.

The prosecution case is that the complainant was married with the petitioner on 23.5.1986. Subsequently, a male child namely Santosh was born who is mentally abraded. It is further alleged that further demand of dowry of fifty one thousand rupees was made and thereafter the petitioner performed second marriage and there are two children out of the second marriage.



It appears that initially the petitioner disclaimed the birth of a baby boy, Santosh Kumar Mahto, as a result, with the agreement of the parties, vide order dated 26.11.2015 both sides were directed to appear before the learned court below for DNA matching of the child with that of the petitioner. The FSL report dated 29.3.2016 reflects that the DNA of the child matched with that of the petitioner, thereafter the petitioner agreed to make payment of one time settlement amount of rupees three lacs and ancestral property of two bighas ten dhoors along with a residential house. Statement to that effect has been made in paragraph 5 of the 3rd supplementary affidavit which reads as follows:

“That the petitioner is ready to compromise the case with the complainant opposite party No. 2 and he is ready to pay cash amounting to three lacs and total share of his landed property which is approximately 2 bigha and ten dhur and residential house which has been got by him after family partition at his native village – Sultanpur, P.S. – Mohuddinagar, District – Samastipur.”

It is submitted by the learned counsel for the complainant that the complainant is unable to maintain herself and her mentally abraded child as till date the petitioner has not provided her anything. In the service book also the petitioner has



got entered the name of second wife as nominee by filing an affidavit to the effect that the complainant is dead. It is further submitted that the complainant is not ready to settle the issue on payment of one time settlement amount.

In the circumstances, it appears that the issue is not likely to be reconciled at present, hence, let the learned court below consider the prayer for regular bail of the petitioner in case the petitioner surrenders within six weeks from today in connection with Complaint Case No. 153C of 2012 pending in the court of learned S.D.J.M. Samastipur.

This application is disposed of with the aforesaid observation/direction.

Let the office seal the FSL report and transmit it to learned court below.

(Dinesh Kumar Singh, J)

Anil/-

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