

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46931 of 2016

Arising Out of PS.Case No. -723 Year- 2014 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

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Sunil Kumar Paswan S/o Rajendra Ram, R/o Village- Dani Bigha, P.S.-
Aurangabad (T), Distt.- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pinki Devi W/o Sunil Kumar Paswan, present resident of Village-
Sakari Chouki, P.S. + Distt.- Arwal.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Kumar

For the Opposite Party/s : Mr. Sri Lakshmi Kant Sharma

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

04/ 02-03-2017

Heard learned counsels for the petitioner, State
and the complainant-opposite party no. 2.

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 and 323/34 of the Indian Penal Code.

The basic accusation is of torture.

The petitioner and the complainant are present
in the Court.

Learned counsel for the petitioner submits that
the petitioner admits his marriage with the complainant on



20.02.2011 and birth of a male child. Subsequently the differences cropped and the petitioner filed Matrimonial Suit No. 56 of 2014 on 26.05.2014 with a prayer for divorce on the ground of cruelty and desertion and thereafter the present complaint was filed on 12.08.2014. Learned counsel for the petitioner drew the attention of this Court towards order dated 26.06.2015 passed in Matrimonial Suit No. 56 of 2014 by learned Principal Judge, Family Court, Aurangabad wherein it was stipulated that it was submitted on behalf of the counsel for the petitioner that the issue was resolved on payment of one time settlement amount of Rs.2,25,000/- for which the complainant agreed consequently petitioner deposited the said amount before the learned court below, though ultimately Matrimonial Suit No. 56 of 2014 was dismissed vide order dated 29.09.2016 passed by learned Principal Judge, Family Court, Aurangabad. It is further submitted that the petitioner has challenged the same in Misc. Appeal No. 1289 of 2016. Hence, the petitioner is not ready to keep the complainant.

Counsel for the complainant-opposite party no. 2 submits that the marriage between the complainant and the petitioner and birth of a male child are admitted facts. It is the petitioner who deserted the complainant. The complainant



denies the factum of accepting one time settlement amount of Rs.2,25,000/- which gets further fortified from the judgment passed by learned Principal Judge, Family Court, Aurangabdd dated 29.09.2016 which does not talks about settlement of the issue on payment of one time settlement amount and deposit of the same by the petitioner before the learned court below.

Counsel for the petitioner, in the alternative, submits that the petitioner is ready to make payment of Rs.4,000/- per month from April, 2017 to the complainant by depositing the same in her account by second week of every succeeding month.

Counsel for the complainant submits that, though, the complainant is ready to resume the conjugal life even today but, reluctantly, accepts the offer of the payment in order to save herself and the minor child from destitution and vagrancy and undertakes the submit the bank account number on affidavit before the learned court below within a period of three weeks.

Considering the present stand of the parties, in order to save the complainant and minor child from destitution and vagrancy with a lurking hope that the issue may reconcile in future, 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 bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Arwal (Jehanabad) in connection with Complaint Case No. 723 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforementioned payment will be subject to any order passed in matrimonial, maintenance or connected 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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