

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30300 of 2016

Arising Out of PS.Case No. -406 Year- 2015 Thana -GAYA COMPLAINT CASE District- GAYA

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Manish Kumar Singh, Son of Upendra Prasad Singh, resident of Village-Lohiya, P.S.- Begusarai, District- Begusarai at present residing at M.P.J.C. Thermal Power Station, Shambhupur, P.S. Sarai, District-Bakaura(West Bengal).

.... Petitioner

Versus

1. The State of Bihar.
2. Smt. Mahima Singh, Wife of Manoj Kumar Singh, D/O Arun Kumar Singh, R/O Moh-Shivpuri Colony, Road No. 2, Katri Hill Road, P.S. Chandauti, District-Gaya.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Krishna Pd. Singh, Sr. Advocate and Mr. Sanjeev Kumar, Advocate.

For the State : Mr. Dr. Ajeet Kumar, A.P.P.

For the Complainant : Mr. Vindhychal Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

6 30-01-2017 Heard learned senior counsel for the petitioner, complainant and learned counsel for 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 498(A) of the Indian Penal Code and 3/4 of the D.P. Act.

The basic accusation is of torture for non-fulfilment of the dowry demand.

It is submitted by learned senior counsel for the



petitioner that the petitioner admits his marriage with the complainant on 21.06.2010. Subsequently a female child was born on 15.01.2014 but thereafter the complainant filed Complaint Case No. 394 of 2013 on 03.09.2013 wherein before the order of cognizance could be passed, the issue was resolved hence the complaint was dismissed on the basis of compromise and subsequent thereto the female child was born. The petitioner filed Matrimonial Suit No. 12 of 2015 on 09.01.2015 with a prayer for divorce whereas the present complaint was filed on 18.03.2015. A Complaint Case No. 1675 of 2014 was also filed before the Women's Commission but the same was disposed of on 28.05.2015 since the complaint was filed.

It is submitted by learned senior counsel for the petitioner that the petitioner was initially ready to keep the complainant with full dignity and honour but the issue could not be resolved due to the attitude of the complainant.

The order dated 28.05.2015 passed by the Women's Commission suggests that it was the complainant who was not ready to resume the conjugal life but at present the petitioner is not ready to keep the complainant.

It is submitted by learned counsel for the complainant that the complainant is still ready to resume the conjugal life



provided the petitioner keeps her with full dignity and honour. The order dated 10.01.2015 reflects that the complainant was ready to resume the conjugal life. The order of the learned Sessions Judge reflects that it was the petitioner who refused to keep her and the complainant was ready to resume the conjugal life.

Considering the rival submissions of the parties, it appears that on a joint prayer of the parties vide order dated 16.08.2016 the matter was referred to the Mediation Center of Bihar State Legal Services Authority. The report of the Mediator dated 10.11.2016 at Flag-‘Y’ reflects that the issue could not be resolved through the process of mediation. It further appears that the complainant preferred an application for transfer of matrimonial suit from Kolkata to Gaya and the Hon’ble Supreme Court also referred the matter to Mediation but it is submitted that the Mediation has failed though no order of the Hon’ble Apex Court has been brought on the record.

It appears that the issue is not likely to be reconciled at present. However, learned senior counsel for the petitioner submits that the petitioner is ready to pay Rs.19,000/- to the complainant from March, 2017 by depositing the same in the bank account of the complainant by second week of every succeeding month. Learned counsel for the complainant submits that the



complainant is ready to accept the offer of the petitioner. However, the complainant feels that the aforesaid amount is not adequate to maintain herself and her child. The complainant undertakes to 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 the minor child from destitution and vagrancy, with lurking hope that the issue may reconcile in future, let the petitioner above named, be released on bail in the event of his arrest or surrender before the learned court below within a period of six weeks from today in connection with Complaint Case No. 406 of 2015 on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The above mentioned payment will be subject to any order being passed in Matrimonial Maintenance or connected proceedings.

Three consecutive defaults in making the payment will give liberty to the complainant to file an application for cancellation of bail of the petitioner.



The present order, in no way, will preclude the parties to
resolve the issue otherwise.

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(Dinesh Kumar Singh, J)

