

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11056 of 2015

Arising Out of PS.Case No. -79 Year- 2014 Thana -DANAPUR District- PATNA

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Dr. Amit Kumar Sahu Son of Sri Arun Kumar Sahu Resident of Mohalla - Bulandwar Sahi, P.S. Keonjhar, District - Keonjhar, (Odisha) presently resident of 96 - D, Gautam Nagar, New Delhi 110049

.... Petitioner/s

Versus

1. The State of Bihar
2. Simmi Mala Wife of Dr. Amit Kumar Sahu, D/o Surendra Kumar Presently residing at Panchasheel Nagar, Khagari Road, P.S. Danapur, District - Patna 800012

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kamal, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

17 11-04-2017 Heard Mr. N.K. Agrarwal, learned counsel for the petitioner, learned counsel for the informant and Mr. J.N. Thakur, learned counsel for the State.

Petitioner being husband of the informant is apprehending his arrest in a case registered for the offences punishable under Sections 498A,341,23,504,313/34/34 of the I.P.C and Sections 3 & 4 of the Dowry Prohibition Act.

The basic accusation is of torture for non-fulfillment of dowry demand and getting the pregnancy terminated.

It is submitted by learned counsel for the petitioner that petitioner admits his marriage with the informant on 23.11.2011 but the informant deserted the petitioner on 24.08.2012, as a result, the petitioner filed Matrimonial Suit No. 405 of 2012 on 08.10.2012 before the Principal Judge, Family Court,



Bhubaneswar with a prayer for divorce but the said matrimonial suit has been transferred to the Court of Principal Judge, Family Court, Patna pursuant to an order passed by the Hon'ble Supreme Court. Thereafter, the informant filed Domestic Violence Case No. 1100(C) of 2013 on 11.09.2013 wherein the learned Additional Chief Judicial Magistrate, Danapur passed an interim order dated 08.03.2016 allowing right of residence at New Delhi residence of the petitioner and the Protection Officer, New Delhi and the Police of South Delhi were directed to provide adequate security to the informant to save her from domestic violence. Thereafter, the said order was challenged by the petitioner in Cr. Appeal No. 41 of 2016 but the learned Additional Sessions Judge, Danapur by order dated 30.07.2016 upheld the order of learned Additional Chief Judicial Magistrate, Danapur. Thereafter the petitioner challenged both the orders passed by the A.C.J.M, Danapur and the appellate order passed by the learned Sessions Judge, Danapur in Cr. Misc. No. 38538 of 2016 but the same has also been dismissed with liberty to the petitioner to file appropriate application under Section 25 of the Act before the learned A.C.J.M, Danapur for alteration of earlier order passed in Domestic Violence Case and consequently the petitioner preferred Cr. Misc. application before the learned Magistrate. Initially, a complaint was filed by the informant which came to be registered as Danapur P.S. Case No. 79 of 2014. After the



registration of police case, the informant also filed Maintenance Case No. 1830 of 2014 pending before the Principal Judge, Family Court, Patna wherein the petitioner has already entered appearance. It is further submitted by learned counsel for the petitioner that there is no likelihood of the issue being reconciled at present. However, the petitioner is ready to make payment of Rs. 7000/- to the informant from May, 2017 by depositing the same in the Bank Account of the informant by second week of every succeeding month.

Learned counsel for the informant submits that the informant is ready to resume the conjugal life.

It is further submitted that the matter was referred to the Meditation Centre vide this Court by order dated 08.09.2014 on a joint prayer of the parties but the report of the Mediator reflects that the issue could not be reconciled due to non-cooperation of the parties. The petitioner has still not complied the order passed in Domestic Violence Case.

Learned counsel for the petitioner further submits that the petitioner will comply the order passed in Domestic Violence Case No. 1100C of 2013 as soon as modification application is disposed of by the learned court concerned. However, counsel for the informant is now reluctantly ready to accept the offer of monthly payment and undertakes to submit Bank Account no. within a period of three weeks.



Considering the rival submissions and the present stand of the parties, in order to save the informant from destitution and vagarancy with lurking hope that issue may reconcile in future, let the petitioner, above named, in the event of his 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) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Danapur in connection with Danapur P.S. Case No. 79 of 2014 subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The above mentioned payment will be subject to any order passed in maintenance case, Domestic Violence Case or any other collateral proceedings.

Three consecutive defaults in making payment will give liberty to the informant 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 as per the otherwise.

(Dinesh Kumar Singh, J)

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