

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43804 of 2015

Arising Out of PS.Case No. -359 Year- 2012 Thana -LAKHISARAI District- LAKHISARAI

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Raju Vishwakarma Son of Late Dev Lal Vishwakarma, resident of Mohalla
- Mohanpur Bazar Traffic Colony, P.s. - Supapdih, District - Dhanbad
(Jharkhand).

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarvan Kumar, Advocate

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

12 10-03-2017 Heard learned counsels for the petitioner, informant
and the State.

The petitioner being the husband of the informant is
apprehending arrest in a case registered for the offences
punishable under Sections 498A, 315, 406 and 509 of the Indian
Penal Code and Section 3/4 of the Dowry Prohibition Act.

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

It is submitted by learned counsel for the petitioner
that the petitioner admits his marriage with the informant in the
year 2003 having one male child. The petitioner filed
Matrimonial Suit No. 99 of 2012 with a prayer for divorce on



13.03.2012 and thereafter the present FIR was lodged on 17.09.2012, though, the matrimonial suit has been dismissed but the petitioner has preferred Miscellaneous Appeal No.198 of 2016. It is further submitted that in pursuance the order passed in a case filed under Protection of Woman from Domestic Violence Act, the petitioner is making payment of Rs. 1,800/- per months to the informant. Under the circumstances the petitioner is not ready to keep the informant.

It is submitted by learned counsel for the informant that the informant is still ready to resume the conjugal life. The petitioner is not making payment regularly of the maintenance amount as awarded in Domestic Violence Case. Moreover, the informant wants enhancement of the quantum of maintenance amount.

Learned counsel for the petitioner further submits that the petitioner has defaulted three occasions in depositing the maintenance amount, but now he has deposited the up-to-date maintenance amount as awarded in the Domestic Violence Case. Moreover, it is submitted that mediation not only failed during Domestic Violence Case but also during matrimonial suit.

Considering the rival submissions of the parties, it appears that conciliation is not feasible at present, so far as



enhancement of quantum of maintenance amount is concerned, the order dated 22.08.2013 passed by the learned Judicial Magistrate, Dhanbad, in Criminal Case No.725/2012 reflects that opposite party no.2 was given opportunity to make amendment of the prayer in case of increase of income of the petitioner. In that view of the matter, the petitioner is at liberty to file appropriate application before the appropriate forum.

Keeping in view of the fact that the matrimonial suit was filed at earlier point of time, sending the petitioner to jail at present will further push the informant and the minor child in vagrancy and destitution which will further jeopardize the future prospect of issue being reconciled between the parties, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 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 the learned Chief Judicial Magistrate, Lakhisarai, in connection with Lakhisarai P.S. Case No.359/2012, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The bail bond of the petitioner will be accepted on filing of proof with regard to up-to-date payment of maintenance



amount as awarded in Domestic Violence Case.

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

The present order will not preclude the parties to reconcile the issues otherwise.

Ashwini/-

(Dinesh Kumar Singh, J)

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