

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41635 of 2016

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1. Ram Nandan Prasad , S/o Late Sidheshwar Prasad
 2. Baliram Prasad, S/o Ram Nandan Prasad, Both Resident of village-
Manikpur, P.S.- Tekari (O.P.- Alipur), Distt.- Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. Lavlesh Kumar S/o Late Sri Ram Singh, R/o Village- Chillauri, P.S.-
Makhdumpur, Distt.- Jehanabad

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar

For the Opposite Party/s : Mr. Sri Ram Anurag Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 19-07-2017

The present application has been filed for modification of order dated 25.03.2011 passed in Cr. Misc. No. 5656 of 2011 to the extent that in pursuance to the order of this Court the petitioners deposited Rs.40,000/- before the learned court below and the said deposit was subject to the result of the case. The petitioners have been acquitted in Complaint Case No. 470 of 2010.

A supplementary affidavit has been filed to the effect that the petitioners took efforts for release of the said amount, but the learned court below did not release the same.

The petitioners were granted anticipatory bail in Complaint Case No. 470 of 2010 vide order dated



25.03.2011 passed in Cr. Misc. No. 5656 of 2011 wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 406 of the Indian Penal Code and Section 4 of Dowry Prohibition Act.

The accusation was that the complainant Lavlesh Kumar negotiated the marriage of his daughter Bharti Kumari with the son of petitioner no. 1 Ram Nandan Prasad, namely, Krishdeo Prasad @ Krishna. Petitioner No. 2 is the brother of proposed bridegroom. The complainant paid Rs.1,20,000/- but ultimately the marriage was not performed.

The petitioners were granted anticipatory bail subject to deposit of Rs.40,000/- before the learned court below within a period of two months from the date of order which was to be invested in some fixed deposit scheme, which would be subject to the result of the case. The bail bond of the petitioners was to be accepted provisionally which was to be confirmed by the learned court below on deposit of Rs.40,000/- vide order dated 25.03.,2011 passed in Cr. Misc. No. 5656 of 2011. The relevant portion of the order reads as follows:-

“Let the petitioners deposit Rs.40,000/- before the learned court below within a period of two months from today which will be invested in some fixed deposit



scheme which will be subject to result of the case.”

It is submitted by learned counsel for the petitioner that the petitioners have been acquitted by the learned Court of SDJM, Jehanabad vide judgment dated 15th of June, 2012 in Complaint Case No. 470 of 2010, Trial No. 1353 of 2011. Consequently counsel for the petitioners filed petition for release of the amount on 15.06.2012 before the learned trial court and the same has been brought on record as Annexure-6 but no order has been passed till date.

This Court is not issuing notice to the complainant since this Court is not passing any order affecting the complainant rather explaining the purport of the order dated 25.03.2011 passed in Cr. Misc. No. 5656 of 2011. The purport of the said order was that the deposited amount was subject to result of the case. Since the petitioners claim to have been acquitted in the case, hence, by operation of above quoted order dated 25.03.2011, the petitioners are entitled to receive the said amount.

In the circumstances, this modification application is disposed of with direction to the learned SDJM, Jehanabad to dispose of the application for release of the amount



of the petitioners after giving due opportunity of hearing to all affected persons in terms of discussion made above within a period of six weeks of receipt/production of the copy of this order.

(Dinesh Kumar Singh, J)

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