

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13491 of 2017

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1. Devanand Kumar Soni, Son of Sri Lakhan Prasad Gupta, Resident of Mohalla- Manipura, LCT Ghat Gali No 2 Makan No 5 Thana Patliputra, G.P.O., Patna District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Nandini Kumari, Wife of Sri Devanand Kumar Soni, resident of Mohalla Indrapuri (Sikra) Post Office Dhelwan, P.S. Beur, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh

For the Opposite Party/s : Mr. Sri Jitendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-03-2017 Heard learned counsel for the petitioner, complainant and the State.

The present application has been filed for modification of the order dated 13.08.2015 passed in Criminal Miscellaneous No.33957/2015 to the extent of confirmation of the provisional bail granted to the petitioner for one year.

The petitioner being the husband of the complainant is apprehending arrest in a complaint case wherein processes were directed to be issued after cognizance being taken under sections 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of torture for non fulfillment of dowry demand.



On instruction, it was submitted by learned counsel for the petitioner that the petitioner admits his marriage with the complainant and is ready to keep her as wife with full dignity and honour. Statement to that effect has been made in paragraph no.20 of the main petition, which reads as under :-

"That the petitioner is very much ready to keep the complainant gracefully in his house where she was residing even after filing of the complaint case without any if and buts, just maintain act of togetherness."

On instruction it was submitted by learned counsel for the complainant that the complainant accepts the offer of the petitioner and both sides agreed to appear before the learned Court below on 25th of August, 2015 when the petitioner was supposed to take the complainant to keep her as wife with full dignity and honour.

Considering the joint stand of the parties, the petitioner was granted provisional bail for one year in connection with Complaint Case No.4022C/2013, pending before the learned SDJM, Patna, which was to be confirmed by the learned Court below in three eventualities :- (i) on substantial restoration of the matrimonial harmony; (ii) or if the complainant gets reluctant to reconcile the issue; and (iii) or if the complaint fails to appear



before the learned Court below.

It is submitted by learned counsel for the petitioner that in pursuance to this order, the complainant resumed the conjugal life and stayed in the matrimonial house till 16th of April, 2016. Since the complainant filed a withdrawal petition on 28.01.2016 in the present complaint case, hence, prayer was not made before the learned Court below for confirmation of provisional bail. The petitioner is still ready to keep the complainant as wife with full dignity and honour.

Learned counsel for the complainant submits that this is not in dispute that the complainant resumed the conjugal life with the petitioner, but on 28.01.2016, the complainant filed withdrawal petition and thereafter on 17.08.2016 she was driven out from the matrimonial house. The complainant is still ready to resume the conjugal life with the petitioner and is not opposing the prayer for bail of the petitioner.

Considering the rival submissions of the parties, since the petitioner was granted provisional bail on 13.08.2015, which lapsed on 12.08.2016 whereas the present modification application has been registered on 18.03.2017, this Court is not inclined to pass any order in the present modification application. But keeping in view of the present stand of both the parties, let the



learned Court below pass appropriate order, if the petitioner surrenders within a period of six weeks for release of the petitioner on provisional bail and the same will be confirmed by the learned Court below on substantial restoration of the matrimonial harmony.

Accordingly, the modification application is disposed of.

(Dinesh Kumar Singh, J)

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