

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52799 of 2016

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Vivekanand Jha, Son of Sri Laxmikant Jha, Resident of Vachaspati Nagar,
P.S. – Bahadurpur, District – Patna. At presently Address-11, BSS Hall,
Khyber Pass, Civil Lines, Delhi – 11004.

.... Petitioner/s

Versus

1. The State of Bihar
2. Kanchan Kumari W/o Vivekanand Jha, R/o Vachaspati Nagar,
Kumhrar, P.S. – Mahendru, District – Patna, Kanchan Kumari,
Associates Professor, Computer Science College Guru Gobind Singh
Indraprastha Vishwavidalaya Delhi at present Kanchan Kumari D/o
Binod Kumar, Thakur, R/o Lavganw P.S. Khagaria (Gangaur), District
– Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
: Mr. Anuj Kumar, Advocate
For the O.P. No. 2 : Mr. Ram Sumiran Rai, Advocate
For the Opposite Party/s : Mr. Anil Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

06/ 16-05-2017 Heard Mr. Yogesh Chandra Verma, learned
counsel for the petitioner, Mr. Ram Sumiran Rai, learned
counsel for the complainant-opposite party no. 2 and Mr. Anil
Kumar Singh, learned counsel for the State.

The present application has been filed for



modification of order dated 16.08.2016 passed in Cr. Misc. No. 33772 of 2016 to the extent of confirming the provisional bail of the petitioner.

The petitioner being the husband of the complainant preferred Cr. Misc. No. 33772 of 2016 with a prayer for anticipatory bail in connection with Complaint Case No. 746C of 2015, wherein, process has been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code and Section 4 of dowry Prohibition Act, pending in the court of learned Sub-divisional Judicial Magistrate, Khagaria. On submissions made coupled with the statement made in paragraph no. 12 of the main petition that the petitioner is ready to keep the complainant as wife with full dignity and honour the petitioner was granted provisional anticipatory bail for six months with liberty to the learned court below to issue notice to the complainant and on her appearance the petitioner was supposed to take the complainant to keep her as wife with full dignity and honour. The provisional bail was supposed 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 complainant fails to appear before the learned court below.

This Court vide order dated 08.03.2017 passed in the present application directed for not taking any coercive steps against the petitioner since the provisional bail was going to expire and both sides are ready to resolve the issue.

Today a supplementary affidavit has been filed on behalf of the petitioner annexing the memorandum of settlement, wherein, it is stipulated that both the petitioner and the complainant decided to part ways on payment of one time settlement amount of Rs.7,00,000/- (Seven lakhs), out of which a cheque of Rs.4,00,000/- (Four lakhs) in favour of the complainant drawn on Punjab and Sindh Bank is handed over to the counsel for the complainant for being handed over to the complainant. It is expected from the learned counsel for the complainant to make endorsement to that effect on the records. The rest Rs.3,00,000/- (Three lakhs) has been agreed to be paid to the complainant through cheque or draft on dissolution of marriage with mutual consent. Both sides agree to file Matrimonial Suit under Section 13B of the Hindu Marriage Act and withdraw the earlier Matrimonial Suit No. 254 of 2015. They also agree to file appropriate application with regard to the present stand of the parties in the present case being Complaint



Case No. 746C of 2015 as well as in Maintenance Case No. 91 of 2015.

In the circumstances, considering the present stand of the parties, the order dated 16.08.2016 passed in Cr. Misc. No. 33772 of 2016 is modified to the extent that the provisional bail granted to the petitioner is, hereby, confirmed. The petitioner is allowed to remain on the same bail bonds which has already furnished.

It is expected from the learned court below to conclude all the proceedings pending between the parties in view of the present stand of the parties.

Let a copy of this order be transmitted to the learned court below when the parties are permitted to file memorandum of settlement on affidavit before the learned Magistrate where is present complaint is pending as well as in maintenance proceeding and the matrimonial suit which is going to be filed.

It is jointly submitted that memorandum of settlement does not stipulate the period of filing of matrimonial suit under Section 13B of the Hindu Marriage Act or the date of payment of the rest amount of Rs.3,00,000/- (Three lakhs) but the matrimonial suit will be filed within a period



of four weeks from today and a draft of Rs.3,00,000/- (Three lakhs) will be submitted by the petitioner before the Principal Judge, Family Court, Khagaria on the date of the judgment in the matrimonial suit and it is expected from the court concerned to release the said draft in favour of the complainant.

(Dinesh Kumar Singh, J.)

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