

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22357 of 2017

Arising Out of PS.Case No. -508 Year- 2015 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

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1. Arun Mistry Son of Ramanand Mistry, Resident of Village-
Bhushanchak, P.S. Naubatpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rinku Devi, W/o Arun Mistry D/o Kedar Mistry, At present Resident of
Village- Dhandar Bigha, P.S. & District Jehanabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok

For the Opposite Party/s : Mr. Sri Arun Kumar Pandey

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

4 08-09-2017 Heard learned counsels for the petitioner,

complainant and the State.

The petitioner, being the husband of the complainant, is apprehending arrest in a complaint case, wherein process was directed to be issued after cognizance being taken for the offence punishable under Section 498A of the IPC.

The petitioner and the complainant are present in person.

The prosecution case got initiated with the filing of Complaint Case No. 508 of 2015 by the complainant-Opposite Party no. 2, Rinku Devi. The marriage between the petitioner and



the complainant-Opposite Party no. 2 and birth of a child is not in dispute. It is alleged that after marriage, the relationship between the petitioner and the complainant-Opposite Party no. 2 was very cordial for one year but, thereafter, the demand of dowry of rupees one lac was made by the petitioner and other family members. It is also alleged that the petitioner has performed second marriage and ultimately on 11.5.2015, the complainant was driven out from the matrimonial house. Consequently, on the solemn affirmation of the complainant and statements of enquiry witnesses, order of cognizance was passed.

Learned counsel for the petitioner submits that the petitioner admits his marriage with the complainant and birth of a female child. It is the complainant, who deserted the petitioner. The petitioner is mentally abraded but he is still ready to keep the complainant and the daughter with due dignity and honour. Statement to that effect has been made in paragraph 12 of the petition which reads as follows;

“That, the petitioner is still ready to bring back his wife with his daughter with all love, care honour & dignity.”

Learned counsel for the complainant-Opposite Party no. 2 submits that the complainant is ready to accept the offer of the petitioner, but she is apprehensive due to the past conduct of



the petitioner. The Principal Judge, Family Court vide ex parte order dated 14.6.2016 passed in Maintenance Case No. 34 of 2016 directed the petitioner to pay Rs.3000/- per month to the complainant and Rs.1000/- per month to her minor child from the date of filing of Maintenance case, i.e., 5.5.2015 by 15th day of each succeeding month, however, the arrear was to be paid in ten equal monthly installments but nothing has been paid to the complainant. Learned counsel for the petitioner, however, submits that he never received any notice in the aforementioned maintenance case but he also submits that henceforth the petitioner will appear in the Maintenance Case No. 34 of 2016. Both sides agree to appear before the learned Court below on 18th September, 2017 when the petitioner will take the complainant-Opposite Party no. 2 and minor child to keep them with due dignity and honour.

Considering the rival submissions of the parties, keeping in view the fact that both sides are ready to resume the conjugal life and to resolve the issue, the mental state of the petitioner and in order to save the complainant and minor child from destitution and vagrancy with a lurking hope that the issue may reconcile in future between the parties, let the petitioner above named be released on provisional anticipatory bail for six months from today in the event of arrest or surrender within a



period of six weeks on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned JM Ist Class, Jehanabad in connection with Complaint Case No. 508 of 2015, subject to the conditions as laid down in Section 438(2) of the Cr.P.C.

The provisional anticipatory bail of the petitioner will be confirmed in three eventualities – (i) if the matrimonial harmony is substantially restored, or (ii) if the complainant fails to appear before the learned Court below or (iii) if the complainant gets reluctant to reconcile the issue.

It is made clear that this Court has not expressed any opinion with regard to the compliance of order of maintenance passed by the learned Principal Judge, Family Court, Jehanabad in Maintenance Case No. 34 of 2016. However, the learned Court below will accept the bail bonds on filing of affidavit by the petitioner that he has entered his appearance in the maintenance proceeding.

(Dinesh Kumar Singh, J)

Anil/-

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