

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.62046 of 2017
In
Criminal Miscellaneous No.48009 of 2015

Arising Out of PS. Case No.- Year- Thana- District- Purnia

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Manoj Baid @ Manoj Kumar Baid, Son of Kanhaiya Lal Baid, resident of 5-5-95, Plot No. 95, Flat No. 302, Jeeva, P.S. Gandhi Nagar, District - Secundrabad.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sheetal Baid, Wife of Manoj Baid, resident of Madhubani Bazar, P.S. K. Hat, Purnea.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar
		Mr. Oruj Faiyaz
		Mr. Rohit Raj
For the Opposite PartyNo.2	:	None.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 20-06-2018 Heard Mr. Sandeep Kumar, learned counsel for the petitioner.

The present application has been filed for modification of the order dated 9.2.2017 passed in Cr. Misc. No. 48009 of 2015 to the extent of expunging Clauses (d) and (f) of the terms of agreement arrived at between the petitioner and the O.P. No. 2 during mediation with regard to the matrimonial suit.

It appears that notice was issued to O.P. No. 2 vide order dated 3.1.2018. Though the notice was received by the uncle of O.P. No.2, hence the matter was placed for accepting the service of notice on O.P. No. 2, but no order



was passed on the validity of service of notice since learned counsel for the O.P. No. 2 appeared on 28.3.2018 and the matter was directed to be listed for admission. On 2.5.2018 and 16.5.2018 none appeared for the O.P. No.2, hence the matter was adjourned for today. Today also, none appears for the O.P. No. 2.

The petitioner being the husband of the complainant was granted anticipatory bail vide order dated 9.2.2017 passed in Cr. Misc. No. 48009 of 2015 in connection with Complaint Case No. 1173 of 2013 wherein process was directed to be issued after cognizance being taken under Section 498A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act since the issue was resolved between the parties through the process of mediation on certain conditions. The conditions incorporated in Clauses (d) and (f) of the terms of agreement read as follows:

“(d) Manoj Baid @ Manoj Kumar Baid would withdraw the divorce case filed in Hyderabad.

(f) Both the parties would file a joint petition for divorce under section 13-B of the Hindu Marriages Act within a month's time in the Court of competent jurisdiction which shall be at Patna as the cause of action



has arose at the Mediation Centre of the Hon'ble Court of Judicature at Patna.”

As per the above conditions, the petitioner agreed to withdraw the matrimonial suit filed at Secunderabad though in the order dated 9.2.2017 it has wrongly been recorded as Hyderabad and that both the parties would file a joint petition for divorce under section 13-B of the Hindu Marriage Act within a month's time in the Court of competent jurisdiction at Patna.

It has been brought to the notice of this court that actually the marriage was dissolved vide judgment dated 13.12.2016 passed by the learned XII Additional Chief Judge, CCC, FAC Judge, Family Court, Secunderabad in FCOP No. 68 of 2016, as contained in Annexure 2, but since this fact was not known to the petitioner or the O.P. No. 2, hence it was not brought to the notice of this court or to Mediator. Hence, the said conditions under clause (d) and (f) have been incorporated in the terms of agreement as well as the order of this Court.

In view of the aforesaid judgment of dissolution of marriage between the petitioner and the O.P. No.2, now clause (d) and (f) have become redundant.



Accordingly, the order dated 9.2.2017 passed in
Cr. Misc. No. 48009 of 2015 is modified to the extent that
the petitioner is not obliged to comply with the clauses (d)
and (f) of the terms of agreement.

This application stands disposed of.

(Dinesh Kumar Singh, J)

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