

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8108 of 2018

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Kumar Vikram S/o Shiv Kumar Gupta, R/o Mahboob Khan Tola, P.S.- K.
Hat, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar. null null
2. Sneha Kiran D/o Binod Kumar Mahto, W/o Kumar Vikram, R/o
Raniganj (Barbana), P.S.- Raniganj, District- Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate
For the State : Mr. Smt. Asha Kumari, APP
For O.P. No. 2 : Mrs. Smriti, Advocate

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

09/ 10-10-2018

Heard Mr. Ajit Kumar Singh, learned counsel

for the petitioner and Mrs. Smriti, learned counsel for the opposite
party no. 2.

The present application has been filed for
modification of the order dated 03.04.2017 passed in Cr. Misc.
No. 43181 of 2016 to the extent that in view of the order being
passed in maintenance proceeding, the petitioner does not require
to make payment in pursuance to the undertaking given at the time
of consideration of bail, which is incorporated in order dated
03.04.2017.

The factual matrix of the case is that the
petitioner, being the husband of opposite party no. 2, preferred Cr.



Misc. No. 43181 of 2016 with a prayer for anticipatory bail in Complaint Case No. 3188 (C) of 2015, wherein processes were directed to be issued after cognizance being taken for the offences punishable under Sections 498A/34 of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act. Though, in spite of the matter being referred to the Mediation Centre by this Court, the issue could not be resolved between the petitioner and opposite party no. 2. Ultimately, in view of the offer of the petitioner to make payment of Rs.11,000/- per month from May, 2017 to the complainant by second week of every succeeding month. Since learned counsel for the opposite party no. 2, on instruction, accepted the offer, the petitioner was granted anticipatory bail with condition that the above mentioned payment will be subject to any order being passed in matrimonial, maintenance or any other connected proceedings, which reads as follows:-

“The above mentioned payment will be subject to any order that being passed in Matrimonial, Maintenance or any other connected proceedings,”

Subsequently, the learned Principal Judge, Family Court, Purnea vide order dated 28.04.2017 passed in Maintenance Case No. 26 of 2016, after considering the fact that



the petitioner has been making payment of Rs.11,000/-, in pursuance to the order dated 03.04.2017 passed in Cr. Misc. No. 43181 of 2016, directed the petitioner to make payment of Rs.15,000/- per month as interim maintenance and Rs.3,000/- per month as litigation cost to opposite party no. 2 from the date of the interim maintenance petition filed by the opposite party no. 2, i.e., 15.12.2016 by 5th day of each succeeding months in the bank account of opposite party no. 2, as contained in Annexure-2.

A supplementary affidavit has been filed to the extent that the petitioner deposited Rs.11,000/- per month from May, 2017 to November, 2017, though, the maintenance order was passed on 28.04.2017, hence, in view of the condition that the bail order was subject to the any order being passed in maintenance proceeding, now the petitioner is not required to make payment.

Learned counsel for the opposite party no. 2 does not controvert this contention about the payment from May, 2017 to November, 2017 made by the petitioner. However, now her claim is that the petitioner is not complying the order dated 28.04.2017 passed in Maintenance Case No. 26 of 2016.

Learned counsel for the petitioner submits that the petitioner is ready to comply the order dated 28.04.2017 passed in Maintenance Case No. 26 of 2016 within a period of two



months.

At present, this Court is only concerned with the modification of the order dated 03.04.2017 passed in Cr. Misc. No. 43181 of 2016. The opposite party no. 2 is at liberty to move before the learned Principal Judge, Family Court, Purnea for compliance of the order dated 28.04.2017 passed in Maintenance Case No. 26 of 2016. It is expected from learned Principal Judge, Family Court, Purnea to consider the undertaking of the petitioner to the effect that he will comply the said order within a period of two months.

Accordingly, the order dated 03.04.2017 passed in Cr. Misc. No. 43181 of 2016 is modified to the extent that the petitioner is not required to make payment in pursuance to the undertaking incorporated in order dated 03.04.2017.

In view of the discussions made above, this modification application is disposed of.

(Dinesh Kumar Singh, J)

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