

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39082 of 2018

Arising Out of PS.Case No. -2992 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Rabindra Nath Teripathy @ Rahul Tripathy, S/o Sri Madan Mohan Tripathy, R/o- E/119, P.cC. Colony, Kankarbagh, P.S.- Kankarbagh, Dist- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Jyoti Rani Tripathy, W/o Rabindra Nath Tripathy @ Rahul Tripathy, D/o Late Shiv Prasad Mishra, Presently residing at father's home at New Purandarpur, P.S.- Jakkanpur, Dist- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan Singh

For the Opposite Party/s : Mr. Yogendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 01-08-2018 Heard the learned counsel for the petitioner, the Opposite Party as well as the State.

This petition has been filed under Section 482 of the Cr.P.C. for setting aside the impugned order dated 16.05.2018, by which the bail bond of the petitioner has been cancelled in compliance of the order dated 16.10.2017 passed by this Court in Cr. Misc. No. 30731/2017.

Learned counsel for the petitioner submitted that the petitioner in compliance of the Hon'ble Court's order dated 16.10.2017 passed in Cr. Misc. No. 30731/2017 had taken his wife/complainant to his house on 12.02.2018 and since then she



remained with the petitioner till 15.07.2018. The petitioner tried his best to keep his wife and children with honour and dignity as per his financial capacity but the Opposite Party No. 2 did not show any co-operation or interest in restoring her conjugal life. It is further submitted that in the evening of 18.07.2018, she left the house of the petitioner with her luggage and belongings. In the change circumstances, the petitioner is ready to make payment of amount of maintenance to his wife and children amounting to Rs. 10,000/- per month as per direction given by the learned Additional Principal Judge, Family Court, Patna in Case No. 143(M) of 2013 dated 24.06.2016.

Learned counsel for the petitioner further submits that during the period O.P. No. 2 lived with this petitioner, i.e. from 12.02.2018 to 18.07.2018, he may be exempted from any payment of the maintenance amount as he had maintained O.P. No. 2 and his children.

Learned counsel for the O.P. No. 2 has submitted that when she went to the house of the petitioner, she was again physically and mentally tortured by this petitioner and was not provided basic amenities and ultimately, she was forced to leave his house.

Perused the impugned order passed by the learned



court below. It appears that the court below has discussed in detail about the submission made on behalf of both the parties in court before him. Since the O.P. No. 2 left the house of petitioner, the court below cancelled the bail bond of the petitioner in compliance of the order dated 16.10.2017 passed by this Court in Cr. Misc. No. 30731/2017.

This Court after hearing the submission of both the parties and also going through the supplementary affidavit filed on behalf of the petitioner and counter affidavit on behalf of the O.P. No. 2 finds that the petitioner in compliance of the order of this Court passed in Cr. Misc. No. 30731/2017 took his wife with him and kept her for about five months and tried his best to restore the conjugal relation with her but the same could not be restored. The petitioner is ready to make payment of maintenance amount to the O.P. No. 2 in the event she lives separately from him.

This Court, in such circumstances, feels that both parties could not make adjustment even after living together for about five months, i.e. 12.02.2018 to 18.07.2018. The husband (petitioner) cannot be forced to restore his conjugal life if O.P. No. 2 is not interested as the petitioner in compliance of the order of this Court in Cr. Misc. No. 30731/2017 has already tried to restore his conjugal relationship and kept his wife for five months but



because of no proper adjustment between them, the wife left his house.

This Court is of the view that no useful purpose would be served by sending the petitioner into custody. The petitioner is ready to make payment of amount of maintenance to O.P. No. 2 as per order of the learned Additional Principal Judge, Family Court, Patna in Case No. 143 (M) of 2013.

In such circumstances, the impugned order dated 16.05.2018 is hereby set aside.

The petitioner will be allowed to remain on same bail bond furnished by him at the time of his release.

The petitioner is directed to make payment of the maintenance amount of Rs. 10,000/- to the informant as per order dated 24.06.2016 passed by the learned Principal Judge, Family Court, Patna in Case No. 143(M) of 2013 along with all the arrears after deducting the period from 12.02.2018 to 18.07.2018, when the informant lived with petitioner in the matrimonial house.

The petitioner will make payment of the amount of arrear in term of aforesaid order within a period of six months in six monthly installments. The petitioner will also make payment of the current amount of maintenance, i.e. Rs. 10,000/- by 15th day of every month. The petitioner may deposit the amount of



maintenance in the account of the O.P. No. 2 for which O.P. No. 2 will provide her account number to the petitioner.

It is made clear that in the event the petitioner makes delay in payment of the current amount of maintenance or fails to make payment of arrear amount of maintenance in six installments, O.P. No. 2 will be at liberty to file a petition for cancellation of bail bond of the petitioner which will be disposed of by the court below in accordance with law.

This petition is allowed with direction and observation made above.

(Sanjay Priya, J.)

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