

Manish Kumar Vs. State of Jharkhand and anr

Manish Kumar Vs. State of Jharkhand and anr

SooperKanoon Citation : sooperkanoon.com/1008060

Court : Jharkhand

Decided On : Jul-30-2013

Appellant : Manish Kumar

Respondent : State of Jharkhand and anr

Judgement :

[IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. M. P. No. 1437 of 2012
----- Manish Kumar .. Petitioner Versus 1. The State of Jharkhand 2. Priyanka Deo
.. Opp. Parties ----- CORAM : HONBLE MRS. JUSTICE JAYA ROY For the
Petitioner : Mr. B.M. Tripathi, Sr. Advocate Mr. Dilip Kumar Karmakar , Advocate.
For the O.P. No.2 : Mr. D. Chandra Ghosh., Advocate. For the State : A.P.P. -----
C.A.V. ON:

26. 06.2013 PRONOUNCED ON:

30. 07/2013 ----- Jaya Roy,J.

Heard the learned counsel for the petitioner the learned counsel for the Opposite party no.2.

2. The petitioner has filed this application for modification of the order dated 31.01.2012 passed in A.B.A. No. 2608 of 2011 whereby this Court has directed the petitioner to deposit an Account Payee Demand Draft amounting to Rs.7 Lakhs (Rupees Seven Lakhs) in the name of the complainant of this case in the Court below and return all the articles come under 'Stree-dhan' to the complainant,

and surrender before the court below within the aforesaid period. If the petitioner deposits an Account Payee Demand Draft of the said amount, returns all the aforesaid articles and surrenders before the court below within the aforesaid period, the trial court below will release him on bail on furnishing bail bonds etc. The counsel of the petitioner prays for modification of the aforesaid order and grant reasonable and suitable time for amicable settlement and dissolve the entire disputes and furnishing bail bonds in the concerned court below for ends of justice.

3. The counsel for the petitioner has submitted that in view of the aforesaid order, the petitioner deposited a draft of Rs. 7 Lakhs vide D.D. No. 122735 of S.B.I. in the name of the opposite party no.2 namely Priyanka Deo along with her Stree-dhan with a list specifically stating therein, the name of the articles, on 26.03.2012 in the concerned Court below and to support of his contention a photo copy of the certified copy of the details D.D. and list of 'Stree-dhan' articles is annexed and marked as Annexure-1 in this petition.

4. It is further argued by the counsel of the petitioner that the opposite party no. 2 complainant filed an application before the court below stating therein that she has received the Demand Draft but most 2 Cr. M. P. No. 1437 of 2012 of the articles are mentioned in the list of the articles and has not been returned, only about 10% of the articles are not mentioned in the list and those articles have been returned and the majority of the articles are still lying with the petitioner. The court below after hearing both the parties by its order dated 26.03.2012 passed the following order:- Under such facts and circumstances I think that the final compromise did not took place. Hence the permission petition of the accused petitioner is not granted.

5. Therefore, the petitioner has filed the instant petition for modification of the aforesaid order passed in A.B.A. No. 2608 of 2011 by this court.

6. The opposite party no.2 has appeared through her counsel and he submitted that though the opposite party has received a sum of Rs.7 lakhs through demand draft as stated earlier but she has not received the entire articles which come under the 'Stree-dhan' and only few articles have been handed over to her by the petitioner. Therefore, the petitioner has not complied the direction given by this

Court by the aforesaid order passed in A.B.A. No. 2608 of 2011.

7. From the record, I find that as the counsel appearing for both the parties, have submitted that the parties are ready to compromise the matter and the petitioner is ready to pay a sum of Rs. 7 Lakhs and return her all her Stree-dhan, in view of the said submissions this court passed the following order on 31.01.2012:- Counsel appearing for both the parties have submitted that the parties are ready to compromise the matter as the petitioner is ready to pay the complainant a sum of Rupees 7 Lakhs (Rupees Seven Lakhs) and to return her all her Stree-dhan within a period of two months from the date of this order. As both the counsel have consented to these conditions, I direct the petitioner to deposit an Account Payee Demand Draft amounting to Rs. 7 Lakhs (Rupees Seven Lakhs in the name of the complainant of this case in the court below and return all the articles come under Stee-dhan to the complainant, and surrender before the court below within the aforesaid period. If the petitioner deposits an Account Payee Demand Draft of the said amount, returns all the aforesaid articles and surrenders before the court below within the aforesaid period, the trial court/ court below is directed to release the petitioner namely Manish 3 Cr. M. P. No. 1437 of 2012 Kumar on bail, on furnishing bail bond of Rs. 10,000/- (Ten thousand) , with two sureties of the like amount each, to the satisfaction of the court below/Judicial Magistrate, Ist Class, Jamshedpur, in connection with C/1 Case No. 417 of 2011, subject to the conditions that both the bailors will be local resident having immovable property within jurisdiction of district concerned and subject to the conditions laid down under Section 438(2) Cr.P.C. The trial court/court below is directed to hand over said Account Payee Demand Draft to complainant after proper verification of the identity of the complainant of this case. After the compliance of the aforesaid direction by the petitioner, the complainant will withdraw her complaint petition. With the aforesaid directions, this application stands disposed of.

8. Admittedly the complainant opposite party have received a sum of Rs. 7 lakhs and few articles from the petitioner. According to the petitioner, he has given the entire articles of the complainant which her parents given her at the time of marriage but the complainant's plea is that she has received only few articles and majority of her articles which are her 'Stree-dhan' are still lying with the petitioner.

It is not possible for this court decide this matter as to whether the petitioner has given the entire articles of the complainant to her or not. It is question of fact and it cannot be decided only on the basis of the affidavits filed by both the parties before this court in this application.

9. Therefore, I direct the court below to decide this fact whether the petitioner has already given the entire articles to the complainant or still few are left with him, by taking oral and documentary evidence of both the parties and thereafter pass an order according to the order dated 31.01.2012 passed in A.B.A. No. 2608 of 2011 within a period of three months from the date of receipt of this order and till the court below pass any order, the police will no arrest the petitioner in connection with C/1 Case No. 417 of 2011 pending in the court of Sri B.B. Singh, Judicial Magistrate, Ist Class, Jamshedpur.

10. With this direction, the instant Criminal Miscellaneous Petition is disposed of.
(Jaya Roy, J) Anit

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com