

Rizwan Ahmand vs The State Of Jharkhand And Anr on 3 February, 2017

Author: Anant Bijay Singh

Bench: Anant Bijay Singh

IN THE HIGH COURT OF JHARKHAND AT RANCHI

	A.B. A. No.458 of 2017	
Rizwan Ahmand	Petitioner
	Versus	
1.The State of Jharkhand		
2. Shabnam Ara	Opposite Parties
CORAM: HON'BLE MR. JUSTICE ANANT BIJAY SINGH		
For the Petitioner	:Mr. Suchendra Prasad, Advocate	
	Mr. Naresh Pd. Thakur, Advocate	
For the State	:A.P.P.	
	

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The petitioner is apprehending his arrest in connection with Misc. Case No. 07 of 2015 for the offence under section 31 of the Protection of Women From Domestic Violence Act, 2005 pending in the Court of Smt. Aarti Mala, learned J.M, Ist Class, Ramgarh.

From perusal of case record, it appears that O.P. No. 2 □Shabnam Ara had filed a Misc. Case No. 12 of 2012 against seven persons under section 12 of the Protection of Women from Domestic Violence Act, 2005, thereafter Court below passed an order dated 19.10.2012 for interim relief, directing the opposite party no. 1 Rizwan Ahmad/husband (herein petitioner) to pay a sum of Rs. 10,000/□per month by way of maintenance allowance and other opposite party nos. 2 to 6 were directed to pay compensation money amounting to Rs. 20,000/□at one time. Thereafter, the opposite party member did not give interim maintenance to the O.P. No. 2 and her children inspite of the order of the learned court below. Thereafter, O.P. No. 2 □Shabnam Ara filed a petition and subsequently that petition has been converted into Misc Case No. 07/15 under section 31 of the Protection of Women From Domestic Violence Act, 2005 and the court below took cognizance under section 31(4) of Protection of Women from the Domestic Violence Act, 2005. Further, it appears that only Rs. 20,000/□was paid to the opposite party members, thereafter, the petitioner filed anticipatory bail application before the trial court which was rejected.

It was submitted by the counsel for the petitioner that the aforesaid order has been challenged by the petitioner in Criminal Revision No. 1377 of 2016 before this Court which is pending.

Provision of section 31 of the Protection of Women from Domestic Violence Act, 2005 which reads as under;

31. Penalty for breach of protection order by respondent; (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.

(2). The offence under subsection (1) shall as far as practicable be tried by the Magistrate who has passed the order, the breach which has been alleged to have been caused by the accused."

Provision of section 32 of the Protection of Women from Domestic Violence Act, 2005 provides that notwithstanding anything contained in the Code of Criminal Procedure Code, 1973 (2 of 1974), the offence under subsection (1) of section 31 shall be cognizable and non-bailable.

In view of the aforesaid, let notice be issued to the O.P. No. 2 under registered cover with A/D as well as by ordinary process, for which requisites etc must be filed within 10 days.

List this case on 18.04.2017. On that date both the parties are directed to remain physically present before this Court, so that in their presence, possibility of reconciliation may be explored.

Till then no coercive step shall be taken against the petitioner in connection with Misc. Case No. 07 of 2015 pending in the Court of Smt. Aarti Mala, learned J.M, Ist Class, Ramgarh.

Let a copy of this order be communicated to the concerned court through FAX.

Satyarthi/-

(Anant Bijay S