

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35479 of 2014

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1. Munna Sah Son of Indrasan Sah Resident of village- Jamsari, Police
Station- Uchakagaon, District- Gopalganj

.... Petitioner

Versus

1. The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Lokesh Kumar Singh

For the Opposite Party : Mr. Dr.Kr. Uday Pratap (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 13-05-2015

The present application has been filed for modification of the order dated 26.04.2013 passed in Cr. Misc. No. 13203 of 2013, whereby the petitioner was granted provisional anticipatory bail for one year on readiness of the petitioner to keep the complainant as wife with full dignity and honour in Complaint Case No. 2260 of 2011, wherein processes were directed to be issued after cognizance being taken for the offences punishable under Section 498A of the Indian Penal Code. The provisional bail of the petitioner was to be confirmed by learned Court below on substantial restoration of matrimonial harmony or if the complainant deliberately refuses to reside with the petitioner.

It is submitted by learned counsel for the petitioner that complainant chose not to appear before learned Court below. A statement to that effect has been made in para 3 of the supplementary affidavit which reads as follows:-

“That it appears from the order sheet of the trial court, that the trial court is awaiting the further direction of this Hon’ble Court in the present case. The case is lingering due to non appearance of the opposite party no. 2.”

In the present modification application, the notices were issued to the complainant/O.P. No. 2 vide order dated 27.08.2014. The office note dated 09.12.2014 reflects that notices were received by the mother of complainant/O.P. No. 2. Thereafter, again notices were issued to the complainant/O.P. No. 2 vide order dated 07.01.2015 and ordinary process of notice was directed to be served to the counsel appearing on behalf of the complainant before learned court below through the offices of learned Court below. The report of the process server dated 23.03.2015 at Flag-X reflects that notices were validly served to the counsel appearing on behalf of the complainant before learned Court below but still none is appearing on behalf of the complainant/O.P. No. 2.

A statement has been made in para 2 of the supplementary affidavit that bail bonds of the petitioner has not been cancelled till date. Paragraph 2 of the supplementary affidavit reads as follows:-

“That it is humbly and respectfully submitted that the bail bond of the petitioner in connection with complaint Case No. 2260 of 2011, Trial No. 2819 of 2015 has not been cancelled as yet by

the learned court below”

Considering the aforesaid submissions and the fact that petitioner is still ready to keep the complainant as wife with full dignity and honour, the order dated 26.04.2013 passed in Cr. Misc. No. 13203 of 2013 is modified to the extent that the provisional bail granted to the petitioner is hereby confirmed.

However, the present order will not preclude the complainant to resume the conjugal life. If the complainant files such an application before learned Court below, learned Court below will issue notice to the petitioner when the petitioner will be obliged to comply the undertaking given before this Court.

Accordingly the modification application is disposed off in connection with Complaint Case No. 2260 of 2011, pending in the Court of learned Judicial Magistrate, 1st Class, Gopalganj.

(Dinesh Kumar Singh, J)

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