

Arising Out of PS.Case No. -135 Year- 2010 Thana -BELHAR District- BANKA

.... Petitioner/s

1. The State of Bihar
2. Anjum Ara, daughter of Md. Yusuf, resident of Village-Raibhir Tola-Nazeerabad, P.S.-Shankarpur, District-Madhepura

.... ¹ Opposite Party/s

For the Petitioner/s : Mr. Syed Masleh-Uddin Ashraf

For the Opposite Party/s : Mr. Shyam Kr.Singh(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

3 19-08-2015

Heard learned counsels for the petitioner,

complainant and the State.

The present application has been filed for modification of the order dated 20.03.2012 passed in Cr. Misc. No. 8301 of 2012 to the extent that order should be rescind as petitioner has already divorced the complainant/O.P. No. 2 as per muslim rites.

The petitioner being husband of the complainant/O.P. No. 2 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 a complaint case wherein processes were directed to be issued after cognizance being taken for the offences punishable under Sections 323, 498A of the Indian Penal Code.

The provisional bail of the petitioner was to be confirmed within one year by the learned Court below on substantial restoration of matrimonial harmony within a period of one year or if the complainant deliberately refuses to reside with the petitioner.

It is now submitted by learned counsel for the petitioner that petitioner divorced the complainant/O.P. No. 2 on 09.09.2011 during pendency of the earlier anticipatory bail application when provisional bail was granted to the petitioner.

Learned counsel for the complainant/O.P. No. 2 denies the factum of divorce.

It appears that above fact was not brought to the notice of this Court when final order was passed on 20.03.2012 and contrary submission was made that petitioner is ready to keep the complainant as wife with full dignity and honour. Moreover for modification of the order dated 20.03.2012, the present modification application has been filed on 19.02.2014 much after expiry of the period of provisional bail.

Hence, this Court is not inclined to modify the earlier order. Let learned Court below consider the prayer for regular bail of the petitioner, keeping in view the stand of the petitioner and the fact that petitioner has enjoyed the privilege of provisional anticipatory bail for one year, if the petitioner surrenders within a period of one year in connection

with Complaint Case No. 122 of 2011, pending in the Court of learned Sub-Divisional Judicial Magistrate, Madhepura.

Accordingly the modification application is disposed off.

Shageer/-

(Dinesh Kumar Singh, J)

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