

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2105 of 2015

Arising Out of PS.Case No. -485 Year- 2011 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

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1. Anuj Singh Son of Lalan Singh Resident of Vill-Lohari Niyar
Shankar,P.S-Noor Sarai,District-Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Manju Devi @Anju Devi D/O Late Paro Chauhan Resident of vill-
Punaul,P.S-Narhat.Distt.-Nawada

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gauri Shankar Prasad
For the Opposite Party/s Mr. Vinod Shankar Modi(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

02/ 19.01.2015 Supplementary affidavit is filed on behalf of the petitioner.

Heard learned counsel for the petitioner as well as learned
Addl. Public Prosecutor for the State.

It is not in dispute that the petitioner filed Cr. Misc. no.
8259/2012 for grant of provisional bail and the aforesaid Cr. Misc.
no. 8259/2012 was disposed of by a coordinate bench of this court
vide order dated 19.03.2012 granting privilege of provisional bail to
the petitioner for one year and furthermore, the court also directed the
petitioner to take complainant to his home and provisional bail of the
petitioner was ordered to be confirmed, if matrimonial dispute
between the complainant and the petitioner is restored.

It is also not in dispute that after the above stated order
dated 19.03.2012 passed in Cr. Misc. no. 8259/2012, petitioner,
again, filed Cr. Misc. no. 14352/2013 before this court for



modification of order dated 19.03.2012 passed in Cr. Misc. no. 8259/2012 on the ground that the petitioner had never married with complainant. A coordinate bench of this court vide order dated 03.07.2013 passed in Cr. Misc. no. 14352/2013 disposed of the above stated modification petition directing to the learned trial court to conduct enquiry regarding factum of marriage of the petitioner and complainant and furthermore, direction was given to the learned trial court that if the concerned court comes to the conclusion that marriage had not been performed between complainant and the petitioner, provisional bail granted to the petitioner shall be confirmed by the learned court below itself but if court below comes to the conclusion otherwise then the petitioner will surrender and pray for regular bail.

It would appear from perusal of the impugned order of the learned Sessions Judge that the petitioner was taken into custody on 19.11.2014 on the ground that his learned counsel had filed a petition before the learned trial court admitting marriage of the petitioner with complainant. On the aforesaid ground the learned court below refused to conduct enquiry and also refused to release the petitioner on bail.

Petitioner approached the learned Sessions Judge in B.P. no. 874/2014 but his prayer was turned down by learned Sessions Judge observing that there was no need to conduct any enquiry in the circumstance, when learned counsel for the petitioner had already admitted about marriage of the petitioner with complainant.

In my view, a coordinate bench of this court specifically, directed to the learned trial court to conduct enquiry regarding substance of marriage of the petitioner as well as complainant, the

learned trial court was bound to comply with the order of this court even if learned counsel for the petitioner filed petition before court below stating that the petitioner wanted to keep the complainant with full honour and dignity. Mere filing of the aforesaid petition does not prevent the court below to conduct the enquiry from the responsibility which had been entrusted upon him by a coordinate bench of this court.

Therefore, in the aforesaid circumstance, the learned court below is directed to release the petitioner on provisional bail for a period of three months from the date of receipt/production of a copy of this order in connection with Complaint Case No. 485 of 2011 and shall conduct an enquiry as directed by this court vide order dated 03.07.2013 passed in Cr. Misc. no. 14352/2013 within the above stated period of three months and furthermore, after conclusion of enquiry, pass afresh order in the light of the above stated order dated 03.07.2013 passed in Cr. Misc. no. 14352/2013.

In the aforesaid manner, this petition stands disposed of.

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(Hemant Kumar Srivastava,J)

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