

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26668 of 2013

Arising Out of PS.Case No. -322 Year- 2011 Thana -KHAGARIA District- KHAGARIA

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1. Abdul Hai Ansari , son of Abdul Kavi
2. Sabana Khatoon, wife of Abdul Hai Ansari
Both residents of village- Gogri, P.O. & P.S. Gogri, District-
Khagaria Petitioners

Versus

1. The State of Bihar
2. Najrin Kahkashana, wife of Md. Asif Ali, D/O Mojahir Ansari, resident
of Nala Road, Jayprakash Nagar, Ward no.22, P.S. Sadar, District-
Khagaria Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Kr.Rajiv

For the Opposite Party/s : Mr. A.P.P.

Mr. A.M.Khan, Adv.

Mr. Anamul Haque, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6 15-12-2016 Heard Sri Kumar Rajiv, learned counsel for the
petitioner, learned Addl. Public Prosecutor as well as Mr. A.M.Khan,
learned counsel, who was assisted by Mr. Anamul Haque, learned
counsel for the informant/Opp.Party no.2.

Two petitioners, who are father-in-law and mother-in-law of the informant/Opp.Party no.2, have approached this Court, invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, with a prayer to quash an order dated 13.03.2013 to the extent whereby the petitioners bail bond was cancelled and on the same day direction was issued for issuance of non-bailable warrant of arrest.

Learned counsel for the petitioners submits that in



Khagaria P.S. Case No. 322 of 2011, G.R. No.1236 of 2011 registered for the offence under Sections 341, 323, 498(A), 379, 506 of the Indian Penal Code and under Sections 3 /4 of the Dowry Prohibition Act, petitioners were arrayed as accused. Subsequently, they were granted bail and started regularly participating in the proceeding. However, the matter was subsequently referred for reconciliation before the Mediation Centre, which subsequently failed. On the first date i.e. 13.03.2013 after record was returned to the court of learned Sub Divisional Judicial Magistrate, due to unavoidable reason, a petition was filed on behalf of the petitioners for being represented under Section 317 of the Code of Criminal Procedure, however the learned Magistrate took the view that the petitioners are taking the delaying attitude and on the first date of non-appearance of petitioners, their bail bonds were cancelled and even on the same date, direction was issued for issuance of non-bailable warrant of arrest. According to learned counsel for the petitioners, the petitioners are ready to render full co-operation to the court below for early disposal of the case.

Learned Addl. Public Prosecutor and learned counsel for the informant have opposed the prayer of the petitioners.

In the present case on 01.08.2013, while directing for issuance of notice to Opp.Party no.2, a Bench of this Court had



directed not to take any coercive steps against the petitioners. Meaning thereby that since 2013 due to non-appearance of the petitioners, the case has not proceeded. It is admitted fact that both petitioners were earlier enlarged on bail. The object in the present case would be to get the trial concluded at the earliest and, as such, keeping in view the fact that due to non-appearance only on first occasion, bail bond was cancelled and on the same day, non-bailable warrant of arrest was issued, the Court is of the opinion that the order impugned can be interfered with.

Accordingly, the order 13.03.2013 to the extent their bail bond was cancelled is hereby set aside. Petitioners are directed to remain on the same bail bond with condition that both petitioners shall appear before the court below regularly in person. If continuously on two dates without prior permission of the trial court, petitioners remain absent, their bail bond shall stand automatically cancelled. It is also desirable to direct the court below to take all steps, so that the case may come to its logical end without unnecessary delay.

While proceeding with the case, the learned court below is required to take up the matter once in a week.

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(Rakesh Kumar, J)