

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15301 of 2016
(Arising out of Cr.Misc. No.30314 of 2014)

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Sri Krishna Kumar Upadhaya, son of Ram Deo Upadhaya, resident of village - Deokuli, P.S.- Brahampur, Dist - Buxar

.... Petitioner/s

Versus

1. The State of Bihar.

2. Anu Devi @ Anita Devi, W/o Krishna Kumar Upadhaya, resident of village - Mainpura, P.S.- Ara Muffasil, Dist - Bhojpur, Ara. At present Anu Devi@ Anita Devi, W/O Mithlesh Kumar Upadhaya, son of Ram Wakil Upadhaya, Vill+ P.O.-Kalayanpur, P.S.-Bihiya, Distt.-Bhojpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha, Advocate

For the Opposite Party/s : Ms. Sangita Sharma (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 09-08-2016 In the present application, the petitioner seeks modification of the order dated 14.01.2015 passed in Cr. Misc. No.30314 of 2014 by a Bench of this Court.

In the said order, while granting anticipatory bail to the petitioner, a sum of Rs.5,000/- (Five thousand) per month was fixed for maintenance of his wife (opposite party No.2). The said amount was to be deposited by the petitioner on month to month basis commencing from January, 2015 by every fifth day of the next month, which was to be paid to the wife (opposite party No.2) by the petitioner. It was further directed that in the event of the money not being paid to the opposite party No.2 even for a single month would entail cancellation of

the order of bail.

Learned counsel for the petitioner submits that the opposite party No.2 has already remarried one Mithlesh Kumar Upadhaya, son of Ram Vakil Upadhaya, Vill+ P.O.- Kalayanpur, P.S.-Bihiya, District-Bhojpur, in that event payment of maintenance to previous wife is not permissible under law. Learned counsel points out to a report of the SDPO, who, by his letter dated 28.01.2016, has informed the SDJM, Bhojpur at Ara that O.P. No.2, namely, Anu Devi @ Anita Devi has already remarried one Mithilesh Kumar Upadhaya, son of Ram Vakil Upadhaya and that she is living peacefully with her second husband. As such, a certificate has already been issued by the Gram Kuthchari, Kalyanpur and the Sarpunch of the Village.

Learned counsel for the petitioner thus submits that when the petitioner came to know about the same, he moved the court below which initiated an inquiry and now the true fact has come before the court. However, since the order is passed by the Hon'ble High Court, the matter was referred to this Court for proper modification, if at all necessary.

Having heard learned counsel for the petitioner and after perusing the materials on record, it appears that there is

some miscommunication on account of which the order has been passed.

Accordingly, let the order now be read as to exclude the clause (i) of the conditions, contained in the aforementioned order dated 14.01.2015 passed in Cr.Misc. No.30314 of 2014. Consequently, the order dated 08.01.2016 passed in Tr. No.3866 of 2012 by the Sub-Divisional Judicial Magistrate, Ara shall not be enforced and the earlier bail bonds filed by the petitioner shall hold good.

With the aforementioned modification, the present application stands disposed of.

(Anjana Mishra, J)

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