

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2467 of 2014

Arising Out of PS.Case No. -1284 Year- 2012 Thana -SIWAN COMPLAINT CASE District-SIWAN

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1. Syed Kamal Saba Son Of Late Shah Azam Resident Of Villae - Kazi Tola Tarwara, P.S.- Gautam Budh Nagar (Tarwara), District- Siwan.

.... Petitioner/s

Versus

1. The State Of Bihar

2. Firdaush Fatma Wife Of Syed Kamal Saba, Daughter Of Md. Shahasuddin Resident Of Mohalla - Kagzi, P.S.- Siwan Town, District-Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Javed Aslam, Advocate

For the Opposite Party/s : Mr. Ajay Kr. 1(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

6 16-11-2016 Heard learned counsel for the petitioner, learned counsel for the Opposite Party No.2 and learned A.P.P. for the State.

The present application has been filed for quashing of the order dated 24.07.2013 passed by learned Judicial Magistrate, 1st class, Siwan in Complaint Case No. 1284 (C) of 2012 whereby the petitioner's bail bonds has been cancelled. The petitioner was granted provisional bail by order passed in Cr. Misc. No. 9257 of 2013 in a case registered for the offence punishable under Sections 498A of the Indian Penal Code. The provisional bail of the petitioner was to be confirmed in case of substantial resolution by matrimonial harmony between the parties or if the complainant

refused to reside with the petitioner.

It has been submitted by the learned counsel for the petitioner that the complainant failed to appear before the Court below and due to laches on behalf of the Opposite Party No.2 his bail bonds has been cancelled. He brings to my notice that a certified copy of the order sheet passed in the said complaint case and annexed with this application showing that on 10.06.2013 the petitioner had appeared before the learned Magistrate and had filed his bail bonds. On that date the complainant had not appeared. Thereafter, the complainant had appeared on 26.06.2013, 09.07.2013 and 24.07.2013, but the petitioner had not appeared on the aforesaid dates, hence the provisional bail granted, was cancelled.

Protest petition No. 980 of 2013 in Mairwa Case No. 73 of 2012 had been filed by the petitioner, who chose not to appear. Ultimately the said Protest petition has been dismissed on 05.05.2015. He further submits that a case for restitution being R.C.R. Case No. 141 of 2012 has been filed before the Principal Judge, Family Court, Siwan and in that case also the petitioner has not appeared on more than ten dates. Hence, the restitution application has also been dismissed on 02.04.2014 by the Principal Judge, family Court, Siwan. He further submits that the

matter has been sent to the Mediation Centre of the Patna High Court in which also dispute between the parties could not be resolved and a report to the said effect has been sent by the mediator of the Mediation Centre of the Patna High Court on 11.11.2014. Learned counsel for the Opposite Party No.2 states that he has filed a Counter Affidavit on 04.08.2014, which is not on record and hence, supplied a copy to this Court.

Taking into consideration, the conduct of the petitioner that he failed to comply the order and direction of this Court passed in Cr. Misc. No. 9257 of 2013, while granting provisional bail, this application is accordingly, dismissed.

A copy of the said counter affidavit, so filed by the Opposite Party no. 2, be retained as part of the record.

(Nilu Agrawal, J)

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