

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3300 of 2017

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1. Rajesh Pandey, son of Sri Krishna Pandey,
2. Indu Devi, wife of Sri Krishna Pandey,
3. Krishna Pandey, son of Sri Chitrakut Pandey, All residents of Village-
Khajuri, P.O.- Pyarepur, P.S.- Pannapur, District- Saran (Chapra).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nita Devi, W/o Rajesh Pandey, D/o Mahesh Mishra, R/o Village Hardia,
P.O.- Chamanpura, P.S.- Baikunthpur, District- Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Narayansingh

For the Opposite Party/s : Mr. Sri Ahmad Ali

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

2 08-02-2017

Heard learned counsel for the parties.

Though the present application has been filed on behalf of three petitioners but the actual modification of the order dated 28.7.2016 passed in Cr. Misc. No. 5539 of 2016 has been sought only on behalf of petitioner 1 being the husband of the complainant for waiving the undertaking for making payment of maintenance amount as directed by the learned Principal Judge, Family Court, Gopalganj in Old Maintenance Case No. 79 of 2011 and Maintenance Case No. 377 of 2013.

The factual matrix would unveil that the



petitioner no. 1 being husband of the complainant along with others preferred Cr. Misc. No. 5539 of 2016 with a prayer for anticipatory bail in Complaint Case No. 3153 of 2013 wherein process was directed to be issued after cognizance being taken under sections 323 and 498A IPC pending in the court of learned J.M. Ist Class, Gopalganj.

The submission was made by learned counsel for the petitioners that the petitioner no. 1 is ready to keep the complainant with due dignity and honour. In alternative, the petitioner no. 1 was also ready to make payment of maintenance amount as directed by the learned Principal Judge, Family Court, Gopalganj in Old Maintenance Case No. 79 of 2011 and Maintenance Case No. 377 of 2013 till the order is not being modified by the concerned court or any other court of competent jurisdiction.

The complainant declined to accept the first offer of the petitioner no. 1 for resumption of the conjugal life since the petitioner no. 1 had performed second marriage.

Considering the stand of the petitioner no. 1 that he was ready to make payment of the maintenance amount as directed by the learned Principal Judge, Family Court, the



petitioner no. 1 was granted anticipatory bail. The bail bonds of the petitioner no. 1 were to be accepted on filing proof on affidavit with regard to the up-to-date payment of the maintenance amount including the arrears as directed by the learned Principal Judge. The complainant was also granted liberty to file appropriate application for cancellation of bail of petitioner no. 1 if the petitioner no.1 defaults for three consecutive occasions in making payment of the maintenance amount.

Now, the modification is being sought for on the ground that petitioner no. 1 is not capable of making payment of the maintenance amount and the fact that the order of maintenance has been challenged in revision.

In the circumstances, this court does not find any merit in the present modification application. However, considering the nature of accusation, let the period of surrender of petitioner no. 1 be extended further for a period of three weeks from today subject to the condition that the petitioner no. 1 submits proof of payment of up-to-date maintenance to the complainant.

With the modification in the order dated



28.7.2016 to the extent indicated above, this modification application is dismissed.

(Dinesh Kumar Singh, J)

Anil/-

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