

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17357 of 2014

Arising Out of PS.Case No. -99 Year- 2011 Thana -BAIKUNTHPUR District- GOPALGANJ

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1. Ramesh Kumar Gupta, son of Mangal Sao, resident of village- Panchmandir,
P.S.- Bhagwanpur Bazar, District- Chapra

.... Petitioner/s

Versus

1. The State of Bihar
2. Rinki Kumari, D/o Shukhdeo Prasad, resident of village- Digha Dubauli, P.S.-
Baikunthpur, District- Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate

For the Opposite Party/s : Dr. Rabindra Kumar, APP

Mr. Surendra Prasad Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-08-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 10.03.2014 passed by the Sub-Divisional Judicial Magistrate, Gopalganj, in Tr. No.3612 of 2014 arising out of Baikunthpur P.S. Case No.99 of 2011, whereby bail bond of the petitioner was cancelled and Non-bailable Warrant of Arrest was issued against him.

2. Learned counsel for the Petitioner has submitted that he was granted provisional bail by this Court vide order dated 04.12.2013 passed in Cr. Misc. No.33604 of 2013. There was condition in the aforesaid order that the provisional bail of the petitioner will be confirmed by the learned Court below on substantial restoration of the



matrimonial harmony or if the Informant fails to appear before the learned Court below.

3. In the impugned order, learned Court below has mentioned that there is no restoration of matrimonial harmony between the parties. Learned Magistrate has further mentioned in the impugned order that the period of provisional bail granted by the Hon'ble Court for three months by order dated 04.12.2013 has already expired and thereafter the Court below has ordered for issuance of Non-bailable Warrant of Arrest against the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner was available on all dates in the Court below, but the Opposite Party No.2 never turned up on any date. There is no such finding of the learned Court below in the impugned order.

5. From the impugned order, it appears that no such submission was ever made in the Court below that the petitioner was always present but the informant did not appear, rather, specific finding of the Court below is that there is no restoration of matrimonial harmony in terms of the order of the Hon'ble Court dated 04.12.2013 passed in Cr. Misc. No.33604 of 2013 and period of provisional bail granted to petitioner by the Hon'ble Court has already expired.

6. In such circumstances, this Court does not find any illegality in the impugned order dated 10.03.2014 passed by the Sub-



Divisional Judicial Magistrate, Gopalganj, in Tr. No.3612 of 2014
arising out of Baikunthpur P.S. Case No.99 of 2011.

7. The application is, accordingly, dismissed.

8. The Court below is directed to take appropriate steps
for immediate arrest of the petitioner in compliance of the Non-bailable
Warrant of Arrest issued against the petitioner.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21-08-2017
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