

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31537 of 2017

Arising Out of PS. Case No.- Year- Thana- District- Vaishali

Pranav Kumar Son of Sri Baijnath Singh, Resident of Village- Hasanpur Bujurg, P.S.- Jandaha, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sushila Kumari @ Priya Kumari D/o Sri Ram Sewak Singh, Resident of Village- Bishunpur, Babde, P.S.- Bhagwanpur, District- Vaishali.

... .. Opposite Party/s

Criminal Miscellaneous No. 40855 of 2017

Arising Out of PS. Case No.- Year-1111 Thana- District- Vaishali

Pranav Kumar, Son of Sri Baijnath Singh, Resident of Village- Hasanpur Bujurg, P.S.- Jandaha, Dist- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sushila Kumari @ Priya Kumari, Daughter of Sri Ram Sewal Singh, Resident of Village- Bishunpur Babde, P.S.- Bhagwanpur, District- Vaishali.

... .. Opposite Party/s

Appearance :

(In Criminal Miscellaneous No. 31537 of 2017)

For the Petitioner/s : Mr. Prithivi Raj Singh

For the Opposite Party/s : Mr. MD. ASHLAM ANSARI

(In Criminal Miscellaneous No. 40855 of 2017)

For the Petitioner/s : Mr. Prithivi Raj Singh

For the Opposite Party/s : Mr. MD. ASHLAM ANSARI

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 06-09-2017 These applications have been filed for recall/modification of the order, dated 19.05.2017, passed in Criminal Misc. No. 16566 of 20147 and Criminal Misc. No. 16326 of 2017, whereby this Court has directed for transfer of the proceedings arising out of Complaint Case Nos. 2238 of 2016 and 433 of



2016, filed by the Opposite Party No. 2. The Opposite Party No. 2 and the petitioner were married to each other. The matrimonial disputes arose between them, leading to filing of cases, including criminal cases.

Notices were served on the petitioner. However, since there is no representation on behalf of the respondent in that case, who is petitioner herein, this Court ordered transfer of said two complaint cases, i.e. Complaint Case Nos. 2238 of 2016 and 433 of 2016, to the Court of equivalent jurisdiction in the judgeship of Katihar, by the said order, dated 19.05.2017, in the absence of the present petitioner.

It is the petitioner's case that he had received notices, but in the notices, rule returnable date was mentioned as 19.06.2017; whereas, these cases were taken up by this Court on 19.05.2017, and, therefore, the petitioner could not appear in the cases filed for transfer of said two complaint cases.

I have heard learned Counsel for the parties concerned.

It is the plea of the petitioner that Opposite Party No. 2 has re-married and living with someone else in Vaishali.

The said plea cannot be adjudicated in the present proceeding.

It is true that the order for transfer of criminal cases was



passed in the absence of the petitioner, but I do not intend to modify the said order even after having heard the petitioner through his Counsel, at length, because the opportunity of hearing which was certainly denied to him because of a subsequent rule returnable date than the date on which the case was disposed, has not been given to him. Further, review is barred under the Code of Criminal Procedure.

These applications stand disposed of accordingly.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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