

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28492 of 2013

Arising Out of PS.Case No. -178 Year- 2009 Thana -BAHERA District- DARBHANGA

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1. Ranjeet Kumar Jha, son of late Mohan Jha, resident of village- Gangapur,
Police Station- Pandaul, District- Madhubani, presently residing at C-133,
Maharani Enclave, Hastshal, Police Station- Uttamnagar, District- New Delhi
.... Petitioner/s

Versus

1. The State of Bihar
2. Rani Jha, wife of Ranjeet Kumar Jha, daughter of Laxmi Kant Thakur, resident
of village- Majhora, Police Station- Bahera, District- Darbhanga
.... Opposite Party/s

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Appearance :

For the Petitioner/s : Dr. Rajesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 20-01-2017

This quashing application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated, 10.02.2013, by which the Sub-Divisional Judicial Magistrate, Benipur, Darbhanga, in Tr. No.369 of 2013/G.R.No.178 of 2009 arising out of Bahera P.S. Case No.178 of 2009, has cancelled the bail bond of the petitioner on the ground that he is not keeping the wife with full dignity and care as per the terms entered into at the time of grant of bail.

Heard learned counsel for the petitioner and the learned APP for the State. No one appears on behalf of the Opposite Party No.2, although the name of the advocate is appearing in the Cause List.

Learned counsel for the petitioner has submitted that the



petitioner being the husband was granted bail by the Court below by order dated, 31.08.2010, on merit. Counsel for the petitioner has filed the Xerox copy of certified copy of the order dated, 31.08.2010, along with Supplementary Affidavit, which is at page-5 of the Supplementary Affidavit. Counsel for the petitioner further submits that both the parties with mutual consent had filed Divorce case under Section 13-B of the Hindu Marriage Act before the Principal Judge, Family Court, Darbhanga, and the learned Principal Judge, Family Court, Darbhanga, has dissolved the marriage between the petitioner and the Informant with mutual consent by judgment dated 23.03.2015. Learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in the case of *Aslam Babalal Desai Vs. State of Maharashtra* reported in *AIR 1993 SC 1 / 1992 Cr.L.J. 3712*, wherein, it has been held that when the accused after release on bail again indulges in similar activities, it will be a ground for cancellation of bail.

On perusal of the order dated, 31.08.2010, passed by the learned Magistrate by which petitioner was granted bail, it appears that bail was granted on merit and there was no terms and conditions in the said order. In the instant case, it appears from the impugned order that the Court below has cancelled the bail on the simple reason that the petitioner is not keeping the complainant in terms of the compromise entered into between the parties at the time of grant of bail, but in the



order dated 31.08.2010, there is no such condition that bail of the petitioner will be cancelled in the event he does not keep his wife with full care and dignity. Moreover, from the judgment dated 23.03.2015 passed by the learned Principal Judge, Family Court, Darbhanga, in Matrimonial Case No.02 of 2012, it appears that both the parties have taken divorce under Section 13-B of the Hindu Marriage Act and their marriage has already been dissolved with mutual consent.

In view of such, the order dated, 10.02.2013, passed by the Sub-Divisional Judicial Magistrate, Benipur, Darbhanga, in Tr. No.369 of 2013/G.R.No.178 of 2009 arising out of Bahera P.S. Case No.178 of 2009, cancelling the bail bond of the petitioner, is hereby quashed.

The application stands allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30-01-2017
Transmission Date	30-01-2017

