

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50856 of 2017

In
Criminal Miscellaneous No.33231 of 2015

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

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Arun Paswan, Son of Birendra Paswan, Resident of Village- Patadhi, P.S.
Sheosagar, District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Manisa Devi, Daughter of late Dashrath Paswan presently Wife of Uday
Paswan, Son of late Ram Wansh Paswan, Resident of Village Bheriya, P.O.-
Dihari, P.S.- Dihari, District- Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Syed Asgher Najmi
For the Opposite Party/s : None

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

9 29-08-2018 Heard learned counsel for the petitioner. None
appeared on behalf of the O.P. No. 2 since last several
occasions. Even today, none appears for the O.P. No. 2.

It appears from the record that notice issued to O.P.
No. 2 was received by her new mother-in-law as it is claimed by
the petitioner that O.P. No. 2 has performed second marriage
with one Uday Paswan and an affidavit of jointness with new
mother-in-law was filed. Consequently, vide order dated
25.7.2018 was treated as deemed valid service.

The present application has been filed for
modification of order dated 28.8.2015 passed in Cr. Misc. No.
33231 of 2015 to the extent of modifying the order with regard



to payment of Rs.1500/- per month by the petitioner to O.P. No. 2.

The factual matrix of the case is that the petitioner being the husband of the O.P. No. 2 preferred Cr. Misc. No. 33231 of 2015 for grant of anticipatory bail in a case registered for the offences punishable under Sections 341,323,498A,494 and 379/34 of the IPC. The basic accusation is of torture and performing second marriage. Though it was submitted on behalf of the petitioner that the petitioner is ready to keep O.P. No. 2 as wife with full dignity and honour but learned counsel for the O.P. No. 2 did not accept the offer since the petitioner was alleged to have performed second marriage. In the alternative, it was further submitted that the petitioner is ready to pay Rs.1500/- from October, 2015 by depositing the same in the bank account of the O.P. No. 2 by second week of every month. The said alternate offer of the petitioner was accepted by O.P. No.2 through her counsel. Hence, the petitioner was granted anticipatory bail vide order dated 28.8.2015. The aforesaid payment was subject to any order being passed in matrimonial or maintenance proceeding and three consecutive defaults in making the payment by the petitioner would automatically give liberty to the O.P. No. 2 to file application for cancellation of



bail of the petitioner. However, the aforesaid order would not preclude the parties to reconcile the issue otherwise.

The modification through the present application is being sought in the background that the statement has been made in paragraph 10 that the O.P. No. 2 has performed second marriage with one Uday Paswan on 28.8.2017 and a certificate to that effect has been issued by the Panchayat Mukhia as also the affidavit to that effect sworn by the O.P. No. 2 and her new husband dated 28.6.2017 have been brought on record, as contained in Annexure 3 series. The petitioner claims to have made the payment till August, 2017.

Since in spite of notices being validly served, O.P. No. 2 chose not to appear, this Court, in the interest of justice, is inclined to accept the statement made by the petitioner on affidavit with regard to O.P. No. 2 performing second marriage with Uday Paswan.

In the circumstances, the order dated 28.8.2015 passed in Cr. Misc. No. 33231 of 2015 is modified to the extent that the petitioner is not required to make payment of Rs.1500/- per month to the O.P. No. 2 from 1st September, 2018. It is made clear that the due amount from August, 2017 to August, 2018 will be deposited by the petitioner before the learned court



below which will be subject to the result of the criminal case.

This modification application is, accordingly,
disposed of.

(Dinesh Kumar Singh, J)

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