

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10778 of 2017

Arising Out of PS. Case No.-9 Year-2015 Thana- UCHAKAGAON District- Gopalganj

Raju Kumar @ Amit Kumar @ Amit Sah, son of Shri Ramakant Sah, resident of Village- Bharat Nagar, Bandra, P.S.- Bandra, District- Bandra, Mumbai (Maharashtra) presently Village- Kaparpura, P.S.- Uchkagaon, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Smita Devi, wife of Raju Kumar @ Amit Kumar, resident of Village- Shyampur, P.S.- Kuchaikot, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramadhar Shekhar
For the Opposite Party/s : Mr. Sri Sunil Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

11 02-05-2018

Heard learned counsels for the parties.

The present application has been filed for quashing the order dated 5.11.2016 passed by the learned Sub Divisional Judicial Magistrate, Gopalganj in connection with Uchkagaon P.S. Case No. 9 of 2015, whereby the petitioner's bail bonds have been cancelled.

The factual matrix of the case is that O.P. No. Smita Devi filed Complaint Case No. 94 of 2015 which ultimately came to be registered as Uchkagaon P.S. Case No. 9 of 2015 for the offences punishable under sections 498A and 406/34 of the IPC, wherein it is alleged that the marriage between the petitioner and the O.P. No. 2 was performed on 24.5.2013, but subsequently



further demand of dowry was raised. The petitioner preferred Cr. Misc. No. 25852 of 2015 with a prayer for anticipatory bail, wherein this Court vide order dated 17.7.2015, after considering the statement of the petitioner made in paragraph 10 of the said petition to the effect that the petitioner is ready to keep his wife, granted provisional anticipatory bail for one year. The provisional anticipatory bail was to be confirmed in three eventualities by learned court below - (i) if the matrimonial harmony is substantially restored, or (ii) if the informant fails to appear before the learned court below or (iii) if the informant gets reluctant to reconcile the issue.

It appears from the order dated 5.11.2016 passed by the learned Sub Divisional Judicial Magistrate, Gopalganj in connection with Uchkagaon P.S. Case No. 9 of 2015, which is order impugned in the present application, that the petitioner made default before the learned court below and thereafter explanation was sought from the petitioner as to why his bail bonds be not cancelled, but no explanation was submitted on his behalf, ultimately the bail bonds of the petitioner have been cancelled. It further appears that the petitioner preferred Cr. Misc. No. 15481 of 2017 before this Court with a prayer for modification of the order dated 17.7.2015 whereby the petitioner



was granted provisional anticipatory bail for one year, but this Court vide order dated 19.04.2017 declined to modify the order since the modification application got registered after lapse of eight months of the provisional anticipatory bail. However, the present application has been registered on 02.03.2017 for quashing the order dated 5.11.2016, whereby the bail bonds of the petitioner have been cancelled.

It is submitted by learned counsel for the petitioner that now both the sides have agreed to part ways on payment of one time settlement amount of Rupees Three Lacs and they are ready to withdraw all the cases lodged by either side due to matrimonial dispute.

Learned counsel for the O.P. No. 2 however, does not controvert the contention of learned counsel for the petitioner and is not opposing the prayer of the petitioner but in view of the fact that the petitioner's provisional anticipatory bail got lapsed on 16.7.2016 and thereafter the prayer made in Cr. Misc. No. 15481 of 2017 for modification of the order dated 17.7.2015 to the extent of extending the period of provisional bail, was rejected vide order dated 19.4.2017 as contained in Annexure 7 to the reply filed on behalf of O.P. No. 2. Hence, no useful purpose will be served in setting aside the impugned order cancelling bail



bonds of the petitioner, as admittedly, the petitioner is no longer on bail. Hence, this Court is not inclined to interfere.

However, keeping in view the present stand of the parties as gets reflected from the supplementary affidavit dated 2.5.2018 which suggests that both the sides have agreed to part ways on payment of one time settlement amount of Rupees Three Lacs, let no coercive steps be taken against the petitioner for three weeks in connection with Uchkagaon P.S. Case No. 9 of 2015.

Both the sides agree to appear before the learned court below on 15th May, 2018 when the learned court below, in view of the present stand of the parties, will make an attempt to mediate the issue and will consider the prayer of the petitioner for regular bail and pass appropriate order in view of the fact that the issue has now been reconciled.

With the aforementioned observation/direction, this application is disposed of.

(Dinesh Kumar Singh, J)

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