

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.727 of 2015

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Md. Atabul Rahman, S/o Late Abu Sayeed, Resident of
Village-Dhusmar, P.O.-Sotha, P.S.-Jalalgarh, District-Purnia.
.... Petitioner/s

Versus

1. The State of Bihar.
2. Bibi Hazra, W/o Atabul Rahman, D/o Md. Zubair,
Resident of Kankhudiya, P.S.-Jalalgarh, District-Purnia.
.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjai Kr. Singh, Adv.

For the State : Mr. Ram Anurag Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 20-06-2018 The present criminal revision is directed against the order dated 23.07.2015, passed by the learned Sub-Divisional Judicial Magistrate, Purnia in Miscellaneous Case No. 01 of 2014, whereby the court below, after inquiry, has held that the factum of divorce having been pronounced by the petitioner is not genuine and hence the order of provisional bail was not confirmed and the petitioner was directed to surrender before the court below and seek regular bail.

The occasion for such inquiry was because of an order passed by a Bench of this Court on 09.09.2013, passed



in Cr. Misc. No. 23824 of 2013.

The petitioner, by the aforesaid application, had approached this Court for grant of anticipatory bail for the offences under Sections 323, 494, 498-A, 504 and 120B of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act. Before this Court, it was asserted by the petitioner that the wife/informant was found in an objectionable condition with some other male person and as a result of that, the petitioner had divorced her as per the Muslim law and, thereafter, had performed second marriage with some one else.

The aforesaid fact was seriously disputed by the informant/wife and it was submitted on her behalf that cognizance in the case has already been taken under Sections 494 and 498-A of the Indian Penal Code.

However, this Court chose to grant provisional anticipatory bail to the petitioner but subject to the report of an inquiry which was directed to be conducted with respect to the correctness/genuineness of the assertion of the petitioner that he had given divorce in accordance with the Muslim law to the informant/wife.

Pursuant to the aforesaid direction, given on 09.09.2013, an inquiry was conducted by the learned Sub-Divisional Judicial Magistrate, whereafter it was found that the aforesaid assertion of the petitioner regarding giving



divorce to his wife (informant) was incorrect. Hence, the provisional anticipatory bail was not confirmed.

This Court is afraid, against such an inquiry report, no revision under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 would be maintainable.

It has further been brought to the notice of this Court that in the interregnum period, there has been a change in the circumstances and a compromise has been effected between the petitioner/husband and his wife/informant and both of them are living together under the same roof as man and wife.

Under such circumstances, the only way-out for the petitioner, in the opinion of this Court, is to have the order dated 09.09.2013 modified, if so advised.

Mr. Dhananjai Kumar Singh, learned counsel for the petitioner, seeks permission to withdraw the present petition in order to approach this Court under an appropriate forum for the needful.

Dismissed as withdrawn with the aforesaid liberty.

(Ashutosh Kumar, J)

Praveen-II/-

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