

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37037 of 2018

Arising Out of PS.Case No. -238 Year- 2015 Thana -BIHARSHARIF District- NALANDA
(BIHARSHARIFF)

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Vinita Sinha wife of Shri Ravish Ranjan, D/o Shri Diwakar Prasad R/o
Village - Kila Gufapar, P.S. - Biharsharif, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sri Ravish Ranjan son of Ram Naresh Prasad R/o Village - Fataha, P.S.
Warsaliganj, District - Nawada present Mohalla - Bimla Sadan,
Ambedkar, Room No. 3, State Bank Office Colony, House No. 25, P.S.
- Rupaspur, District - Patna.

.... Opposite Party/s

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With

Criminal Miscellaneous No.24428 of 2018

Arising Out of PS.Case No. -238 Year- 2015 Thana -Bihar District- NALANDA (BIHARSHARIFF)

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Ravish Ranjan, S/o Ram Naresh Prasad, R/o Village- Fataha, P.S.-
Warsaliganj, District- Nawada. A/p Bimla Sadan Ambedkar Room No.3,
State Bank Officer Colony, House No.25, P.S.- Rupaspur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vinita Sinha, W/o Ravish Ranjan, D/o Shri Diwakar Prasad, R/o
Mohalla- Kila Par (Gufa Par), P.S.- Bihar, District- Nalanda.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.37037 of 2018)

For the Petitioner/s : Mr. Madan Mohan Prasad

For the Opposite Party/s : Mr. Sri Uday Pratap Singh

(In Cr.Misc. No.24428 of 2018)

For the Petitioner/s : Mr. Dinesh Jha

For the Opposite Party/s : Mr. Md. Sufiyan

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

02/ 03-10-2018

Cr. Misc. No. 24428 of 2018

This application has been filed for



modification of the order dated 02.05.2016 passed in Cr. Misc. No. 32563 of 2015 in connection with Bihar P.S. Case No. 238 of 2015, whereby the petitioner, Ravish Ranjan was granted anticipatory bail on the readiness to make payment of Rs.15,000/- per month to informant-opposite party no. 2, Vinita Sinha from June, 2016 and the offer was accepted by the informant-opposite party no. 2 since Matrimonial Suit No. 5319 of 2014 was pending before the learned Principal Judge, Family Court, Patna which was filed on 05.05.2014 and thereafter the first information report was lodged on 27.05.2015. The husband Ravish Ranjan had accepted not to perform the second marriage till the present marriage is dissolved.

The present modification has been filed on the ground that the marriage between the petitioner, Ravish Ranjan and opposite party no. 2, Vinita Sinha has been dissolved vide judgment dated 3rd February, 2018 passed by learned Principal Judge, Family Court, Patna in Matrimonial Suit No. 5319 of 2014, as contained in Annexure-1. Hence, the modification has been prayed with regard to payment of Rs.15,000/- per month. This is not in dispute that the petitioner has paid the amount till passing of the judgment in the matrimonial suit, i.e., 03.02.2018. The bail order clearly stipulates that the payment will be subject to any



order being passed in matrimonial or maintenance proceedings.

In the circumstances, the petitioner-husband was not supposed to make payment after the dissolution of marriage. This is not in dispute as submitted by learned counsel for the opposite party no. 2 that the opposite party no. 2 has challenged the order passed in matrimonial suit in Misc. Appeal and the same has been admitted.

Accordingly, the order dated 02.05.2016 passed in Cr. Misc. No. 32563 of 2015 is modified to the extent that the husband was supposed to make payment subject to the order passed in matrimonial or maintenance proceeding. Since the marriage has been dissolved by an order by a competent court, the husband is not supposed to make payment after the order of dissolution of marriage.

Accordingly, Cr. Misc. No. 24428 of 2018 is disposed of.

Cr. Misc. No. 37037 of 2018

This application has been filed by the wife, Vinita Sinha for cancellation of anticipatory bail granted to the husband, opposite party no. 2, Ravish Ranjan on the ground that opposite party no. 2 is not making payment of the agreed amount Rs.15,000/- per month after the dissolution of marriage.



It is submitted by learned counsel for the opposite party no. 2 that, though, the wife, Vinita Sinha has initially appeared in the matrimonial suit and filed written statement but thereafter she could not appear in the matrimonial suit. However, appeal has been filed against the order passed by learned Principal Judge, Family Court, Patna in matrimonial suit.

Since the bail order clearly stipulates that the payment will be subject to any order being passed in matrimonial or maintenance proceedings and the marriage has admittedly been dissolved. Hence, the dissolution of marriage non-payment of agreed amount will constitute ground for cancellation of bail of the husband. It appears surprisingly that bail order stipulated pendency of matrimonial suit and even then the wife failed to appear and contest the matrimonial suit. However, it is submitted that the maintenance case is still pending. The parameters for grant of bail and its cancellation are quite different. The bail is granted considering the nature of accusation while the bail is cancelled on entirely different parameters, i.e., basically on a ground whether the accused has misused the privilege of bail by tampering with the evidence or suppressing the material fact while getting bail. Moreover, in pursuance to the order dated 02.05.2016 passed in Cr. Misc. No. 32563 of 2015, this Court has not granted



maintenance rather the husband agreed to make payment for the welfare of the wife. The issue of the maintenance has to be decided by the competent court in the matrimonial or maintenance proceeding.

Hence, this Court finds no merit in the cancellation application. Accordingly, Cr. Misc. No. 37037 of 2018 is dismissed.

(Dinesh Kumar Singh, J)

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