

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15081 of 2018

In
CRIMINAL MISCELLANEOUS No.35801 of 2014

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Imtiyaz Alam @ Md. Imtiyaz Son of Nizamuddin, Resident of Village-
Maina, Police Station- Palasi, District- Araria.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Ruby Khatoon, Daughter of Late Sk. Suleman, Resident of Village- Maina,
Police Station- Palasi, District- Araria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anamul Haque
For the Opposite Party/s : Mr. Sri Parmanand Prasad

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 07-08-2019 The present application has been filed with a prayer

for modification of the order dated 11.08.2015, passed in Cr.

Misc. No. 35801 of 2014, whereby the petitioner was granted

anticipatory bail in Complaint Case No. 2938C of 2013,

pending in the Court of learned Judicial Magistrate, 1st Class,
Araria, with a further prayer for quashing the order dated

06.01.2018, passed by learned ACJM-VI, Araria in Complaint

Case No. 2938 of 2013, whereby the bail bonds of the petitioner

have been cancelled on the application of the complainant in

view of the observation made by this Court while granting bail

to the petitioner that the complainant is at liberty to file

appropriate application for cancellation of the bail bonds of the



petitioner, if the petitioner fails to comply the undertaking given before this Court.

It is submitted by learned counsel for the petitioner that the liberty for cancellation of bail bonds was to be exercised by this Court and not by the learned Court below. Moreover, a supplementary affidavit has been filed to the effect that the petitioner is still ready to keep the complainant as wife with full dignity and honour, statement to that effect has been made in paragraph no. 3 of the supplementary affidavit, which reads as follows:-

“That the petitioner undertakes that he will keep the complainant (opposite party no.2) with full honour and dignity.”

In the supplementary affidavit, the question of divorce has neither been stated nor it is insisted. The learned counsel for the petitioner further submits that he will never raise the issue that he ever divorced the Opposite party no.2.

It is submitted by learned counsel for the complainant that contrary to the undertaking given by the petitioner before this Court to the effect that he is ready to keep the complainant as wife with full dignity and honour, it was submitted before the learned Court below that the petitioner has divorced the complainant and if the complainant is willing to live with the



petitioner, she has to complete the process of Halala and without completing the process of Halala, it is not possible for the petitioner to keep the complainant as wife. The petitioner never divorced the complainant/opposite party no.2. It is further submitted that the complainant is still ready to live the petitioner.

Considering the fact that the liberty incorporated in the order dated 11.08.2015, passed in Cr. Misc. No. 35801 of 2014, the complainant had the liberty to file an application for cancellation of bail bonds of the petitioner before the learned Court below and in view of the inconsistent stand of the petitioner before this Court vis a vis before the learned Court below, initially this Court was not inclined to interfere, but keeping in view the present stand of the parties, in the interest of justice, the order dated 06.01.2018, passed by learned Judicial Magistrate, 1st Class, Araria in Complaint Case No. 2938 of 2013, whereby the bail bond of the petitioner has been cancelled, is hereby quashed. The order dated 11.08.2015, passed in Cr. Misc. No. 35801 of 2014 is modified to the effect that bail granted, to the petitioner, is now treated to be provisional anticipatory bail for six months.

Both sides agree to appear before the learned Court



below on 30th of September, 2019, when the petitioner will take the complainant to keep her as wife with full dignity and honour.

The provisional bail of the petitioner will be confirmed by the learned Court below in three eventualities, (i) if the matrimonial harmony is substantially restored, or (ii) if the complainant fails to appear before the learned Court below, or (iii) if the complainant gets reluctant to reconcile the issue.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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