

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.62032 of 2017

In

CRIMINAL MISCELLANEOUS No.13964 of 2013

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

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Rakesh Kumar Jha @ Nikku, S/o Santosh Jha, through his natural and legal guardian father Santosh Jha, Son of Late Kameshwar Jha, resident of Village- Charaiya, Police Station- Bhargama, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Sundari Devi, D/o Kamdeo Mishra, resident of Village- Madanpur, P.S.- Madanpur, District- Araria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Adv.
For the State : Mr. Harendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

17 22-10-2021 Heard Mr. Sanjeev Kumar Singh, the learned Advocate for the petitioner. The State is represented by the learned APP.

Nobody has appeared on behalf of opposite party No. 2, despite notices having been issued to her.

It appears from the office notes that the notice on



opposite party No. 2 has not yet been served because she is not staying at the given address.

Mr. Singh, the learned Advocate for the petitioner, however, has informed this Court that the opposite party No. 2 has recently married and, therefore, she is not interested in prosecuting this case.

It appears from the records that by order dated 16.05.2013, passed in Cr. Misc. No. 13964 of 2013, a Bench of this Court had granted provisional bail to the petitioner with a caveat that he shall pay Rs. 500/- (Rupees Five Hundred) per month to his wife/opposite party No. 2. The provisional bail granted to the petitioner was later confirmed. Later, in a proceeding under Section 125 Cr.P.C., the petitioner was directed to pay an amount of Rs. 2,000/- (Rupees Two Thousand) per month to opposite party No. 2 by way of maintenance.

In the meanwhile, the petitioner became mentally ill and was being treated at Mental Hospital, Kanke, Ranchi. An application, therefore, was filed by the father of the petitioner seeking modification of the order of the learned



Magistrate, granting maintenance amount to opposite party No. 2 to the tune of Rs. 2,000/- (Rupees Two Thousand) per month.

It further appears that a Bench of this Court *vide* order dated 21.08.2017, passed in Cr. Revision Nos. 840 of 2016.967 of 2016, set-aside the aforesaid order granting maintenance to opposite party No. 2, on the ground that the provisions under Sections 328 to 331 of the Cr.P.C. were not followed and remanded the matter back to the Court of the learned Principal Judge, Family Court, Araria for holding an enquiry in the light of the provisions contained in Section 328 of the Cr.P.C. and, thereafter, to proceed further in accordance with law.

This Court had called for a report about the stage of such enquiry.

The enquiry appears to have been completed and the petitioner has been found to be in a fit mental state to contest the case.

In that view of the matter, this Court is not inclined to modify the order passed by the Court earlier, but grants



liberty to the petitioner to approach the learned Family Court, Araria and state all such facts, namely, the re-marriage of opposite party No. 2 and the changed circumstances and pray for any relief to which he is entitled.

With the aforesaid observation/direction, the application stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

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