

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22511 of 2021**

**In
CRIMINAL MISCELLANEOUS No.15815 of 2018**

Arising Out of PS. Case No.-262 Year-2010 Thana- COMPLAINT CASE District- Jamui

Sunil Kumar Singh, S/o Siya Ram Singh, Resident of Quarter No. 2091,
Sector -4, P.S. - Bokaro, District - Bokaro.

... .. Petitioner

Versus

1. The State of Bihar
2. Rani Singh @ Ruli Singh D/o Narendra Kumar Singh, Resident of Village Garwah Katauna, P.S.-Katauna, District - Jamui.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Subodh Kumar Jha, Advocate
		Mr. Pranav Kumar Jha, Advocate
For the Opposite Party-State:		Md. Fahimuddin, APP

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER**

3 21-04-2022 Heard Mr. Subodh Kumar Jha, learned counsel for the petitioner and Md. Fahimuddin, learned counsel for the State.

In the instant application preferred under Section 482 of the Code of Criminal Procedure, the petitioner has prayed for restoration of Cr. Misc. No.15815 of 2018, which was dismissed for want of prosecution on 31.08.2018.

It is submitted by the learned counsel for the petitioner that the petitioner is a permanent resident of Bokaro, Jharkhand. He was employed as an Inspector in CISF at Kolkata. He was facing a departmental proceeding and could not keep trace over his case at Patna. The counsel appearing in



the case did not inform him about the status of the case and when he enquired, he came to know that the case is dismissed for want of prosecution. Thereafter, he took no objection certificate from the previous counsel and file the present restoration petition.

Learned counsel for the State does not oppose the prayer made on behalf of the petitioner.

Considering the submissions advanced at the Bar, the prayer is allowed.

Cr. Misc. No.15815 of 2018 is restored to its original file.

Criminal Miscellaneous No.15815 of 2018

Arising Out of PS. Case No.-262 Year-2010 Thana- COMPLAINT CASE
District- Jamui

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Sunil Kumar Singh S/o Siya Ram Singh, Resident of Quarter
No. 2091, Sector -4, P.S. - Bokaro, District - Bokaro.

... .. Petitioner

Versus

1. The State of Bihar.
2. Rani Kumari alias Ruli Singh, daughter of Narendra Kumar Singh, resident of village-Garwah Katauna, P.S.- Katauna, District-Jamui.

... .. Opposite Parties

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This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing the order dated 07.09.2017 passed by the learned Sub-divisional Judicial Magistrate, Jamui in Complaint Case No.262C of 2010 whereby and whereunder he has cancelled the bail bonds of the



petitioner and issued non-bailable warrant of arrest against him.

The petitioner is being prosecuted in connection with Complaint Case No.262C of 2010 instituted under Sections 498-A, 307 and 120-B of the Indian Penal Code as also Sections 3 and 4 of the Dowry Prohibition Act. The learned Sub-divisional Judicial Magistrate took cognizance of the offences under Sections 498-A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act vide order dated 07.04.2010.

At the stage of framing of charge, the petitioner filed an application for discharge before the court of learned Sub-divisional Judicial Magistrate, which was rejected vide order dated 19.01.2017. The aforesaid order dated 19.01.2017 was challenged in revision vide Criminal Revision No.15 of 2017 before the learned Sessions Judge. The learned Sessions Judge dismissed the revision application vide order dated 29.07.2017. Thereafter, on 19.08.2017, the learned Sub-divisional Judicial Magistrate fixed 22.08.2017 as the next date for framing of charge and directed the accused persons to appear personally. On that day, an application under Section 317 of the Code of Criminal Procedure was filed, which was allowed and the learned Sub-divisional Judicial Magistrate



directed the petitioner to be present on 07.09.2017 for framing of charge. Again, on 07.09.2017, an application under Section 317 of the CrPC was filed for dispensing with the personal attendance of the petitioner on the ground that co-accused Meera Singh is not well. The application filed on behalf of the petitioner was not supported by any medical prescription. The learned Sub-divisional Judicial Magistrate after hearing the parties rejected the application and cancelled the bail and issued non-bailable warrant against the petitioner and other accused persons vide order dated 07.09.2017 and fixing 02.11.2017 as the next date for their appearance.

It is submitted by Mr. Subodh Kumar Jha, learned counsel for the petitioner that the learned Sub-divisional Judicial Magistrate ought to have dispensed with the personal attendance of the petitioner and other accused persons, as one of the accused was seriously ill. He submitted that cancellation of the bail bonds and issuance of non-bailable warrant of arrest for non-appearance of the accused persons on a single day was not warranted.

On the other hand, learned counsel for the State submitted that there is no error in the order impugned passed by the learned Sub-divisional Judicial Magistrate. The court below



has exercised its discretionary power under Section 317 of the CrPC. The matter was fixed for framing of charge. At the stage of framing of charge, the presence of the accused persons was mandatorily required. He contended that the cognizance in complaint was taken in the year 2010 itself and due to delaying tactics of the petitioner, the charges have not been framed till date.

On inquiry, Mr. Subodh Kumar Jha, learned counsel for the petitioner admitted that the petitioner has not appeared before the court till date after the cancellation of his bail bonds.

Considering the facts and circumstances of the case, since the learned Sub-divisional Judicial Magistrate had exercised his discretionary jurisdiction and rejected the prayer of the petitioner for dispensing with his personal attendance at the stage of framing of charge, no fault can be found with the order impugned.

The application is devoid of any merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

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