

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58684 of 2017

Arising Out of PS. Case No.-155 Year-2015 Thana- BODHGAYA District- Gaya

Reyaz Khan @ Raju Khan, S/o Ali Raja Khan, R/o Village- Rampur, P.S.-
Ariyari, District- Shekhpura.

... .. Petitioner

Versus

1. The State of Bihar.
2. Fatima Noorain, W/o Reyaz Khan @ Raju Khan, D/o Kamal Khan, R/o
Village- Cherki, P.S.- Cherki, District- Gaya.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Raj Kishor Prasad, Advocate
For the State	:	Mr. Nawal Kishore Prasad, APP
For the O.P. No. 2	:	Mr. Birendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 28-06-2023 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

Petitioner in the present case is seeking quashing of
the order dated 04.04.2017 passed by learned S.D.J.M., Gaya in
G.R. No. 2449/15/2936/16 arising out of Bodh Gaya Cherki P.S.
Case No. 155 of 2015 registered for the offences punishable
under Section 498A of the Indian Penal Code and Section 3/4 of
the Dowry Prohibition Act by which the bail bond of the
petitioner has been cancelled. He has no criminal antecedent.

It appears from the records that earlier this petitioner
had moved for grant of anticipatory bail in Cr. Misc. No. 39475
of 2015. In course of hearing of the application, learned counsel
for the petitioner made a statement that the petitioner is ready to



keep the informant-wife with full dignity and honor. The statement was recorded by the learned Co-ordinate Bench and the petitioner was granted provisional anticipatory bail.

The learned Co-ordinate Bench issued a direction that the provisional anticipatory bail of the petitioner will be confirmed by the learned court below in three eventualities:- (i) on substantial restoration of the matrimonial harmony within a period of one year (ii) if the informant fails to appear before learned court below and (iii) if the informant is reluctant to reconcile the issue.

In the light of the aforesaid observations of this Court, the petitioner filed an application in the learned court below for confirmation of his provisional bail. The said petition has been rejected by the impugned order. Perusal of the impugned order would show that the learned court below rejected the petition on the ground that this petitioner had failed to abide by the order of this Court to keep his wife with full dignity and care.

This matter was lastly heard by this Court on 05.11.2018. After hearing learned counsel for the parties, this Court granted an interim stay of the impugned order. The petitioner had undertaken before this Court that he will bring back his wife-opposite party no. 2 on 19th November, 2018 and



will keep her with full dignity and care.

It, however, appears that the petitioner has filed a supplementary affidavit stating therein that when he requested the family members of the opposite party no. 2 to perform bidai of opposite party no. 2, they refused to do so. They put a condition that the petitioner should pay Rs.3,00,000/- as one time settlement forever as the opposite party no. 2 is not willing to live with her husband.

Learned counsel for the petitioner submits that copy of the supplementary affidavit has been served upon learned counsel for the opposite party no. 2 as back as on 26.10.2018, however, the statements made in the supplementary affidavit have not been denied.

Today, once again, learned counsel for the opposite party no. 2 has submitted that the opposite party no. 2 is still willing to live with the petitioner but it is the petitioner who is not taking her to the matrimonial home.

Having regard to the facts and circumstances of the case, the nature of dispute and the uncontroverted statements of the petitioner in the supplementary affidavit filed about four and half years ago, this Court is of the considered opinion that one of the conditions imposed by the learned Co-ordinate Bench for



purpose of confirmation of provisional bail of the petitioner is available in this case. Since the statement of the petitioner that the family members of the opposite party no. 2 have refused to perform bidai and she is entirely interested in one time settlement has not been denied, this Court would place this case under condition no. (iii) of the order dated 24.08.2015 passed by learned Co-ordinate Bench in Cr. Misc. No. 38622 of 2015.

The impugned order is, thus, set aside, the learned court below shall take appropriate steps to hear the parties afresh, if required steps for mediation may still be taken and thereafter consider the petition of the petitioner for confirmation of bail in terms of the order of this Court referred above.

Till further order by the learned court below, the petitioner shall remain on the provisional bail in connection with Bodh Gaya Cherki P.S. Case No. 155 of 2015 on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M, Gaya, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal



antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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