

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48707 of 2021**

Arising Out of PS. Case No.-141 Year-2016 Thana- SIKANDRA District- Jamui

SANTOSH KUMAR DAS S/o KANTHI LAL DAS R/o JANSIDIH, P.S-
SIKANDARA, DISTRICT - JAMUI.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. PRIYANKA KUMARI W/o SANTOSH KUMAR DAS, D/o BANKEY
DAS R/o MATIA, P.S. - LAXMIPUR, DISTRICT - JAMUI

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amresh Kumar Sinha, Advocate
For the Informant	:	Mr. Rajesh Kumar Sinha, Advocate
For the Opposite Party/s	:	Mr. Ram Bilash Roy Raman, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT**

Date : 04-09-2023

Heard learned counsel for the petitioner, learned counsel
for the informant and learned APP for the State.

2. The present quashing application has been filed for
setting aside the order dated 19.06.2021 in Cr. Revision No. 48 of
2021 passed by the learned Sessions Judge, Jamui whereby the
revision application filed against the order dated 09.02.2021
passed by the learned S.D.J.M., Jamui cancelling the bail bonds of
the petitioner and issuance of non-bailable warrant of arrest
against him in Sikandara P.S. Case No. 141 of 2016 registered
under Sections 498(A)/34 of the Indian Penal Code read with
Sections 3 and 4 of the Dowry Prohibition Act has been upheld.



3. Learned counsel for the petitioner, at the outset, submits that the informant has completely misused the order dated 04.04.2017 in Cr. Misc. No. 16616 of 2017 by which bail was granted to the petitioner with a condition that petitioner shall not indulge in any similar offence till conclusion of the trial.

4. Learned counsel for the petitioner further submits that for proper adjudication of the case, it is necessary to state the facts in some detail. It is submitted that opposite party no. 2 herein filed Sikandara P.S. Case No. 141 of 2016 against the petitioner under Sections 498(A)/34 of the India Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act Act on 07.09.2016 (Annexure-1 to the quashing application). Thereafter, the petitioner was taken into custody on 19.02.2017, accordingly, the petitioner moved before this Court by filing Cr. Misc. No. 16616 of 2017 and the Court was pleased to grant bail to the petitioner by order dated 04.04.2017 (Annexure-2 to the quashing application) with a condition that petitioner shall not indulge in any similar offence till conclusion of the trial apart from other conditions.

5. Learned counsel for the petitioner next submits that opposite party no. 2 had filed Maintenance Case No. 128(M) of 2016 in which the petitioner was directed to pay maintenance of Rs.10,000/- per month which was being directly deducted from his



salary account (Annexure-3 to the quashing application). It is further submitted that a joint petition was filed in Maintenance Case No. 128(M) of 2016 being Misc. Case No. 44 of 2017 by the parties in the Court of the learned Principal Judge, Family Court, Jamui on 07.11.2019 (Annexure-4 to the quashing application) and the parties agreed for one time settlement for an amount of Rs.9,50,000/- for which D.D. No. 830033 was prepared. It is submitted that thereafter the parties filed a joint compromise petition on 14.11.2019 (Annexure-5 to the quashing application) in the Court of the learned S.D.J.M., Jamui as they intended to settle the issue based on one time settlement.

6. Learned counsel for the petitioner submits that after the D.D. was prepared, the monthly maintenance was stopped but the informant became wise and resiled from the earlier settlement and started demanding Rs.15,00,000/-. It is, thus, submitted that since one time settlement failed, hence, maintenance was enhanced and the maintenance was being paid regularly, but, on account of some inadvertence, there was a break of three months in payment of the maintenance, but the same was also later cleared. Learned counsel further submits that the informant realizing that a joint compromise petition has been filed and one time settlement has been arrived at and the monthly maintenance has been enhanced



after she resiled from the one time settlement, thought of taking advantage of the order dated 04.04.2017 in Cr. Misc. No. 16616 of 2017 and, thus, instituted Jamui Mahila P. S. Case No. 16 of 2020 dated 01.04.2020 under Sections 498A, 506/34 and 379 of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act.

7. Learned counsel for the petitioner next submits that from the facts stated hereinabove, it is manifestly clear that after the petitioner was released on bail or rather after filing of Sikandara P.S. Case No. 141 of 2016, the informant was not staying with the petitioner. It is submitted that after the petitioner was released on bail, he started giving monthly maintenance as aforesaid, thus, the informant was willingly accepting the maintenance amount as fixed in the maintenance case which amply demonstrates that the informant was not staying with the petitioner, but since the Court while granting bail to the petitioner by order dated 04.04.2017 in Cr. Misc. No. 16616 of 2017 had imposed a condition, as such, the informant thought of taking advantage of the same and instituted the aforesaid Mahila P.S. Case. Learned counsel submits that mere filing of a case does not amount to violation of the conditions of the order granting bail, the matter had to be investigated for the truth to come out for the



purposes of cancellation of bail otherwise it becomes easy for a person to institute case after case in order to get the bail of the petitioner cancelled on the ground that condition so imposed while granting bail stands breached.

8. Learned counsel for the petitioner thus submits that what has been done by the informant is nothing, but is a complete abuse of the process of the Court by filing a case against the petitioner only to deny him the privilege of bail when admittedly based on the facts aforesaid, she was not staying with the petitioner after institution of the aforesaid Sikandara P.S. case and thus, it completely defies all logic, wisdom and reasonable human behaviour that the petitioner, despite not staying together with the informant would have meted out cruelty or torture.

9. Learned counsel for the petitioner further submits that even the S.D.J.M., Jamui did not wait for the police report and merely because a condition was imposed while granting bail which was alleged to be breached, cancelled the bail bonds of the petitioner in a mechanical manner and the said facts also escaped the attention of the learned Sessions Judge.

10. Learned counsel for the informant appears and does not object to the submissions being made by the learned counsel for the petitioner.



11. In view of the submissions of the learned counsel for the petitioner recorded hereinabove the order dated 19.06.2021 in Cr. Revision No. 48 of 2021 passed by the learned Sessions Judge, Jamui whereby the Revision Application filed against the order dated 09.02.2021 passed by the learned S.D.J.M., Jamui cancelling the bail bonds of the petitioner and issuance of non-bailable warrant of arrest against him in Sikandara P. S. Case No. 141 of 2016 registered under Sections 498(A)/34 of the I.P.C. and Sections 3/4 of the Dowry Prohibition Act stands quashed.

12. Accordingly, this application is allowed.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	06.09.2023
Transmission Date	06.09.2023

