

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16455 of 2021

Arising Out of PS. Case No.-124 Year-2019 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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Nibha Devi @ Nibha Kumari W/O Umesh Kumar, S/O Mohan Mistri R/O
Village- Narhi, P.S.- Kurtha, District- Arwal, At Present D/O Shambhu
Vishwakarma, R/O Village- Dharampur, P.S.- Kako, District- Jehanabad.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. UMESH KUMAR S/O MOHAN MISTRI R/o village- Narhi, P.S.- Kurtha,
District- Arwal. At present R/o Mohalla- Gandhi Nagar, P.S.- Rajiv Nagar,
District- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Binay Kumar Pandey, Advocate
For the Opposite Party/s :	Mr. Ganesh Prasad Singh, APP
	Mr. Pushpendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

11 17-05-2024 Heard learned counsel for the petitioner, learned APP
for the State along with learned counsel for the O.P. No.2.

2. This is an application for cancellation of bail
granted to the opposite party no. 2 in connection with Complaint
Case No. C-2/124 of 2019.

3. The learned counsel for the petitioner submits that
petitioner is legally wedded wife of the O.P. No.2 and the instant
complaint case was filed under Section 498(A) of the IPC read
with other section.

4. It is next submitted that O.P. No.2 had moved this



Court seeking anticipatory bail by filing Cr. Misc. No.3798 of 2020 and a learned coordinate bench by an order dated 21.01.2020 was pleased to grant anticipatory bail to the O.P. No.2, on the ground that a submission was made on his behalf that he is willing to keep the petitioner with honour and dignity and there shall be no recurrence of any untoward act amounting to mental cruelty. It is further submitted that a counter affidavit has been filed on behalf of the O.P. No.2 in the instant case and from perusal of the same it would manifest that the O.P. No.2 had mislead this Court while obtaining anticipatory bail as in the counter affidavit a plea has been taken that opposite party no.2 herein had filed Matrimonial Case No. 47 of 2019 under Section 13 of the Hindu Marriage Act seeking divorce from the petitioner herein and the petitioner herein was impleaded as opposite party no. 2 in the divorce case and despite notice being received on her behalf by her brother she chose not to appear and contest as such the learned Principal Judge, Family Court, Patna passed an exparte order dated 17.09.2021 granting divorce to the opposite party no. 2.

5. The learned counsel for the petitioner thus submits that opposite party no. 2 as petitioner in Cr. Misc. No.3798 of 2020 was seeking anticipatory bail and at the same time was



seeking anticipatory bail as such he was aware that he had already filed a divorce case being Matrimonial Case No. 47 of 2019 seeking divorce from the petitioner herein but he chose to conceal the said material fact and a submission on his behalf was made that he is willing to keep the petitioner with honour and dignity which persuaded the Court to grant the privilege of anticipatory bail to the O.P. No.2.

6. The learned counsel thus submits that it appears that when the anticipatory bail application on behalf of the petitioner was taken up perhaps the Court was not persuaded in the nature of allegation to grant him the privilege of anticipatory bail as such a false submission was made on behalf of O.P. No.2 that he is willing to keep the petitioner with honour and dignity, but then he had already filed a divorce case being Matrimonial Case No. 47 of 2019 seeking divorce from the petitioner herein but chose to conceal the said fact and a false submission was made on his behalf that he is willing to keep the petitioner with honour and dignity only for the purposes of seeking anticipatory bail, when the O.P. No.2 already had filed matrimonial case seeking divorce which amply demonstrates that O.P. No.2 never intended to keep the petitioner with honour and dignity and only for the purposes of the seeking anticipatory bail the said false



submission was made.

7. It is further submitted that petitioner after filing of the counter affidavit on behalf of the O.P. No.2 in the instant case came to know that a divorce case was filed in which ex-parte order has been passed, when neither she nor her brother ever received any notice from the Family Court, Patna, as such the order granting ex-parte divorce would be challenged before an appropriate forum.

8. It is further submitted that O.P. No.2 herein had not approached this Court while seeking anticipatory bail with clean hands as he did not disclose the entire facts, rather concealed a material fact that divorce case was pending, but still by concealing the relevant fact obtained the privilege of anticipatory bail.

9. The learned counsel appearing on behalf of the O.P. No.2 is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that O.P. No.2 at that time when he was seeking anticipatory bail had already filed a divorce case and the same was pending adjudication but then the same was concealed.

10. Since the O.P. No.2 had obtained anticipatory bail by concealing the relevant material fact, as such the Court is



inclined to entertain the instant cancellation application. The anticipatory bail granted to the petitioner by order dated 21.01.2020 Cr. Misc. No.3798 of 2020 is hereby cancelled.

11. Let a copy of this order be sent to the Senior Superintendent of Police, Patna for taking action in accordance with law.

(Satyavrat Verma, J)

Prakash Narayan

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