

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54106 of 2016

Arising Out of PS. Case No.-435 Year-2014 Thana- SIWAN MUFFASIL District- Siwan

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Anita Kumari Wife of Jai Prakash Chaudhary Daughter of Jaleshwar Yadav
Resident of Village Ropan Chak, P.S. Mirganj, District Gopalganj at present
mohalla Ayodhyapuri Lane No. 2 House No. D/5 Shri Nagar, P.S. Siwan
Muffasil, Distt - Siwan.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Jai Prakash Chaudhary @ Pawan Chaudhary Son of Late Ram Ayodhya
Chaudhary Sindhu Road, House No. 268 at present mohalla Golmari 10
Nos. P.S. Golmari, P.O. Golmari, District Jamshedpur, East Singhbhum
Jharkhand.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ramchandra Sahni
For the Opposite Party/s : Mr.Sri Iftekhar Mahmood

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 16-04-2024 1. Heard learned Counsel for the parties concerned.
2. The petitioner, being aggrieved by the order, dated
08.08.2006, passed in Criminal Revision No. 14 of 2016,
arising out of Siwan Mufassil Police Station Case No. 435
of 2014, Trial No. 3583 of 2016, by the learned Sessions
Judge, Siwan, whereby the learned Sessions Judge has
allowed the revision application filed by the Opposite
Party No. 2, has approached this Court by way of the
present quashing application.
3. Siwan Mufassil Police Station Case No. 435 of 2014 was
lodged by the petitioner against the Opposite Party No. 2



under Sections 498-A/323/406 of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act.

4. Learned counsel for the petitioner submits that the Opposite Party No. 2 filed anticipatory bail application before the learned District Court, at Siwan, and learned Sessions Judge, vide its order, dated 30.01.2015, passed in A.B.P. No. 2286 of 2014, granted bail to the Opposite Party No. 2 with a condition that he would keep her wife in his company and also facilitate the wife in taking her examination etc. The petitioner did not follow the condition of bail order. The learned Sub Divisional Judicial Magistrate, during the course of trial, vide order, dated 20.12.2015, directed the Opposite Party No. 2 to keep his wife along with him and if the Opposite Party No. 2 fails to keep his wife, his bail bonds would be cancelled within one month.
5. The aforesaid order passed by learned Sub Divisional Judicial Magistrate was challenged by the Opposite Party No. 2 in Criminal Revision No. 14 of 2016 and the learned Sessions Judge, while rejecting the revision application failed to appreciate that it was conditional bail and learned Sub Divisional Judicial Magistrate only



passed the order directing the Opposite Party No. 2 to keep his wife in consonance with the condition imposed by the learned Sessions Judge while granting anticipatory bail. As such, by allowing revision application, learned Sessions Judge has committed material as well as the jurisdictional error.

6. On the other hand, learned counsel for the Opposite Party No. 2 submits that while granting bail, no condition was put by the learned Sessions Judge. However, the learned Sessions Judge took note of the fact that the Opposite Party No. 2 undertook to keep his wife along with him in order to resume the conjugal relationship. However, this could not be materialized and the Opposite Party No. 2, despite his willingness could not keep his wife with him. The learned Sub Divisional Judicial Magistrate, being inferior to the Court of learned Sessions Judge, cannot cancel the bail bonds on the ground that the condition imposed in the anticipatory bail order was not adhered to by the Opposite Party No. 2.
7. Regards being had to the submissions made by the parties and taking into consideration the nature of dispute involved in this case and the fact that the Sub Divisional



Judicial Magistrate, during the course of trial, cannot compel the Opposite Party No. 2 to resume conjugal relationship with his wife.

8. Accordingly, I do not find any infirmity in the impugned order, dated 08.08.2006, passed in Criminal Revision No. 14 of 2016, passed by the learned Sessions Judge, Siwan.
9. This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

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