

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66100 of 2024

Arising Out of PS. Case No.-52 Year-2023 Thana- MAHILA P.S. District- Bhagalpur

Sakshi Kumari, W/O Divyam Kumar Choudhary @ Julious @ Divyam Kumar, D/O Rajendra Singh R/O Village- Kharaia (Kharahiya), P.O and P.S- Akbarnagar, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Divyam Kumar Choudhary @ Julious @ Divyam Kumar S/O Manoranjan Choudhary R/O Village- Bangay (Vishwaspur), P.S- Sahkund, Distt.- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijendra Kumar
For the Opposite Party/s : Ms. Veena Kumari Jaiswal

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 22-11-2024 1. Heard learned counsel for the petitioner, the learned counsel appearing on behalf of the opposite party no.2 and learned APP for the State.

2. The learned for the petitioner submits that the instant application has been filed seeking cancellation of bail granted to the opposite party no.2 by an order dated 02.07.2024 in Cr. Misc. No.19761 of 2024. The learned counsel next submits that from perusal of the order dated 02.07.2024 in Cr. Misc. No.19761 of 2024, it would manifest that at Paras-3 and 4, it was recorded:-

“3. Learned counsel for the petitioner (opposite party no.2 herein) submits that petitioner has antecedent of one case



and has been falsely implicated in the instant case. It is further submitted that the informant (petitioner herein) alleges that from past few years the petitioner, who was staying in the informant's maternal grandmother's house, was sexually exploiting her on assurance of marriage, when the informant protested and denied establishing physical relation the petitioner assured to marry her thereafter frequent meetings took place at informant's (petitioner herein) maternal grandmother's house and A Wahab Hotel. It is next alleged that while petitioner (opposite party no.2 herein) and the informant (petitioner herein) was staying in the Hotel on 05.11.2023 when their family members came to know about their relationship thereafter informant's family gave Rs.4 Lakh to the petitioner for marriage and thereafter on 27.01.2023 both were married in a temple at Bhagalpur. It is further alleged that petitioner did not accept the marriage and demanded more dowry.

“4. Learned counsel for the petitioner (opposite party no.2 herein) submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the relationship was consensual. Learned counsel based on instruction does not dispute that petitioner and the informant got married in a temple. It is further submitted that after the marriage, it appears that the informant for some ulterior reason instituted the instant case alleging



rape. It is next submitted that petitioner (opposite party no.2 herein) is aware of his responsibility and if the informant is ready to reconstitute her conjugal right, the petitioner will have no issue.”

3. The the learned counsel appearing on behalf of the petitioner submits that in Cr. Misc. No.19761 of 2024, a submission was made on behalf of the petitioner herein, who was opposite party no.2 in the said application at Para-5:- “Learned counsel appearing on behalf of the opposite party no.2 (petitioner herein) submits that though the marriage was performed in the temple but then petitioner is not taking back the informant on which the learned counsel appearing on behalf of the petitioner submits that when petitioner is not denying his marriage in the temple that amply demonstrates that petitioner is ready to keep the informant with honour and dignity.”

4. It is next submitted that based on the submission made by the opposite party no.2 herein in the aforesaid Criminal Miscellaneous, he was granted the privilege of anticipatory bail, but then, liberty was granted to the petitioner (who was opposite party no.2 in the aforesaid Cr. Miss.) to file an application seeking cancellation of anticipatory bail granted to the petitioner (opposite party no.2 herein) if the petitioner refused to keep the informant with himself.

5. It is submitted that in the said background the present cancellation application has been filed seeking



cancellation of the anticipatory bail granted to the opposite party no.2 by order dated 02.07.2024 in Cr. Misc. No.19761 of 2024. It is submitted that the opposite party no.2 herein for the purposes of seeking anticipatory bail had submitted that he is willing to keep the petitioner herein with honour and dignity as he was not disputing the marriage but after the anticipatory bail was granted to the opposite party no.2, he did not take back the petitioner within the matrimonial fold.

6. The learned counsel appearing on behalf of the opposite party no.2 herein is now taking a U-turn and submits that though in the FIR, it is alleged that opposite party no.2 married the petitioner, but then, there is no photograph of the marriage, nor there is any evidence and even presuming that the was married was performed, then the same was a forceful marriage.

7. The Court completely fails to appreciate the conduct of the opposite party no.2 herein that when the instant application seeking cancellation of anticipatory bail has been filed, the learned counsel appearing on behalf of the opposite party no.2 has resiled from his earlier submission made in Cr. Misc. No.19761 of 2024.

8. Since the consideration for grant of bail to the



opposite party no.2 was the submission of the learned counsel appearing on his behalf that opposite party no.2 is willing to keep the petitioner with honour and dignity, but since the said consideration does not exist any more, as such, the Court has no option but to cancel the anticipatory bail granted to the petitioner by order dated 02.07.2024 in Cr. Misc. No.19761 of 2024.

9. The instant cancellation application is allowed.

(Satyavrat Verma, J)

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