

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46448 of 2018

In
CRIMINAL MISCELLANEOUS No.14179 of 2012

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Arun Kumar Singh @ Arun Singh Son of Late Rajendra Singh, Resident of
Village- Bhadouns, P.S.- Sheikhpura Sirari, District- Sheikhpura.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Nirmala Devi, Wife of Arun Kumar Singh, Daughter of Sukhdeo Singh,
Resident of Village- Manikpur Chak, Piri Bazar, Abhaypur, P.S.- Abhaypur,
Piri Bazar, District- Lakhisarai. at present Resident of Village- Bhadouns,
P.S.- Sheikhpura Sirari, District- Sheikhpura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Amit Kumar Jha
For the Opposite Party/s	:	Mr.Sri Sanjay Kumar Sharma
For O.P. No. 2	:	Mr. Shree Kant Pandey

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 04-09-2019 Heard learned counsels for the parties.

The present application has been filed for modification of the order dated 10.9.2012 passed in Cr. Misc. Nos. 14179 of 2012 and Cr. Misc. No.14266 of 2012 only to the extent of allowing the petitioner not to make payment of the monthly amount of Rs.5000/- to the O.P. No. 2 since vide order dated 31.3.2011 passed in the Maintenance Case No.28M of 2011, the learned Principal Judge, Family Court, Sheikhpura has directed the petitioner to pay Rs.6500/- per month to the O.P. No. 2 from the date of filing of the maintenance petition, i.e. 14.10.2011 by 10th day of every succeeding month and the



arrears of the maintenance amount was directed to be paid in 24 equal installments.

The factual matrix of the case is that the petitioner being the husband of the O.P. No. 2, preferred Cr. Misc. Nos. 14179 of 2012 and Cr. Misc. No.14266 of 2012 for grant of anticipatory bail in the cases being filed by the O.P. No. 2, one being Sheikhpura (Sirari) P.S. Case No. 365 of 2011 registered for the offences punishable under Sections 498A and 494/34 of the IPC as well as Complaint Case No. 197C of 2010 wherein process was directed to be issued after cognizance being taken for the offences under Sections 498A/34 of the IPC. The petitioner was granted anticipatory bail in the above mentioned cases since the petitioner was ready to make payment of Rs.5000/- per month to the O.P. No.2 from November, 2012 by depositing the same in her bank account by second week of every month and further undertook to deposit Rupees Five Lacs in the account of the daughter of O.P. No. 2, namely, Rimjhim Kumari for her marriage within a period of one year. The aforesaid payment was subject to any order being passed in matrimonial or maintenance proceeding.

It is submitted by learned counsel for the petitioner that the petitioner has made payment of maintenance amount till



date and Rupees Five Lacs has also been paid to O.P. No. 2. The fact that the aforesaid payment was subject to any order being passed in matrimonial or maintenance proceeding was brought to the notice of the learned Principal Judge while deciding the issue of maintenance as the same has been incorporated in paragraph 12 of the order dated 31.3.2017 passed in Maintenance Case No. 28M of 2011 by learned Principal Judge, Family Court, Sheikhpura, but no adjustment of the amount paid by the petitioner in pursuance to the order dated 10.9.2012 passed in Cr. Misc. Nos. 14179 of 2012 and 14266 of 2012 has been made. It is further submitted that against the order dated 31.3.2017 passed in Maintenance Case No. 28M of 2011, the petitioner has preferred Cr. Revision No. 730 of 2018 before this Court.

Learned counsel for the O.P. No. 2 submits that nothing has been paid to O.P. No. 2 in pursuance to the order dated 31.3.2017 passed in Maintenance Case No. 28M of 2011 by the learned Principal Judge, Family court, Sheikhpura. In response thereto, learned counsel for the petitioner submits that the petitioner is ready to make payment of maintenance amount as directed by the learned Principal Judge, Family court, Sheikhpura.



Considering the rival submissions of the parties, it appears that this Court granted anticipatory bail to the petitioner vide order dated 10.9.2012 passed in Cr. Misc. Nos. 14179 of 2012 and Cr. Misc. No.14266 of 2012 on the readiness of the petitioner that he will pay Rs.5000/- per month to the O.P. No.2 from November, 2012 and was further ready to deposit Rupees Five Lacs in the account of the daughter of O.P. No. 2, namely, Rimjhim Kumari for her marriage within a period of one year with clear stipulation to the effect that the aforementioned payments will be subject to any order being passed in matrimonial or maintenance proceeding and paragraph 12 of the order dated 31.3.2017 reflects that this fact was brought to the notice of the learned Principal Judge, Family Court, Sheikhpura.

In the circumstances, since the maintenance order has been made effective from 14.10.2011 and this Court directed to make payment from November, 2012, the entire amount paid in pursuance to the order of this Court except the amount of Rupees Five Lacs for the purposes of marriage of the daughter of O.P. No. 2, will be treated to be paid as maintenance as directed by the learned Principal Judge, Family Court, Sheikhpura in Maintenance Case No. 28M of 2011. The petitioner undertakes to pay the balance amount, if any, in



pursuance to the order dated 31.3.2017, within a period of three months. However, the said payment will be subject to the order passed in Cr. Revision No. 730 of 2018 pending before this Court.

Accordingly, the order dated 10.9.2012 passed in Cr. Misc. Nos. 14179 of 2012 and Cr. Misc. No.14266 of 2012 is modified to the extent that henceforth the petitioner is not liable to make payment to the O.P. No. 2 in pursuance to the order dated 10.9.2012 passed by this Court and all payments made in pursuance to the said order will be adjusted towards the payments to be made by the petitioner to the O.P. No. 2 in pursuance to the order dated 31.3.2017 passed in Maintenance Case No. 28M of 2011 by the learned Principal Judge, Family Court, Sheikhpura.

This application stands disposed of.

(Dinesh Kumar Singh, J)

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