

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 283 of 2018

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

=====

Md. Abu Nasar @ Nasra @ Abul Hasan @ Abu Nasar, son of Md. Jamhiruddin, resident of Village- Singarmohni, Police Station- Jokihat, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bibi Masuda Khatoon, Wife of Md. Abu Nasar @ Nasra @ Abul Hasan, resident of Village- Singarmohni, Police Station- Jokihat, District- Araria.
3. Bibi Tasrun, Daughter of Md. Abu Nasar @ Nasra @ Abul Hasan and Daughter of Bibi Masuda Khatoon, Wife of Abu Nasar @ Abul Hasan, resident of Village- Singarmohni, Police Station- Jokihat, District- Araria.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Giri, Advocate
For the State : Mr. Ramchandra Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 04-11-2019

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

2. The petitioner has moved the Court under Section 19(4) of the Family Courts Act, 1984 against the order dated 28/29th January, 2018, passed by the Principal Judge, Family Court, Araria in Maintenance Case No. 60 of 2014, by which a sum of Rs. 4,000/- per month to the opposite party no. 2, who is



the wife of the petitioner and Rs. 1,000/- to the opposite party no. 3, who is the daughter of the petitioner has been awarded.

3. Learned counsel for the petitioner submitted that the marriage was invalid as he was employed on the date of occurrence and the petitioner does not earn enough to satisfy the maintenance award.

4. Learned APP submitted that such plea of non maintainability of marriage had to be agitated before a separate forum which has not been done by the petitioner and in the present proceeding, when the quantum is not disputed, the issue of marriage being void cannot be raised. It was further submitted that the quantum of Rs. 5,000/- per month is most reasonable as the same can very well be afforded even by a person earning daily wages.

5. Having considered the matter, the Court does not find any merit in the case. As has rightly been submitted by learned APP, the fact of marriage had to be agitated in a separate proceeding by the petitioner and cannot form the basis of consideration in the present case. Further, the amount of Rs. 5,000/- is most reasonable which requires no interference.

6. The Court would only indicate that the marriage of the petitioner with the opposite party no. 2 is not denied and rather



the contention is that the marriage was not valid, which cannot be gone into in the present proceeding.

7. For reasons aforesaid, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

