

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.1001 of 2018**

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

Sanjiv Rai, S/o Ramvrit Rai, resident of Village- Munni Kalyani,
Gyausuddinpur, P.S. Gayghat, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar
2. Priyanka Devi, W/o Sanjit Rai, D/o Nand Kishore Rai, resident of Village-
Baluaha, P.S. Hathauri, District Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Diwakar Prasad Karn, Advocate
For the Respondent/s	:	Mr. Ram Naresh Ray, A.P.P.
For the O.P. No. 2	:	Mr. Majharul Hassan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-07-2022 Heard learned counsel for the petitioner, learned
counsel for the opposite party no. 2 as well as Mr. Ram Naresh
Ray, learned A.P.P. for the State.

Petitioner in the present case is aggrieved by and
dissatisfied with the order dated 14.06.2018 passed by learned
Principal Judge, Family Court, Muzaffarpur in Maintenance
Case No. 63 of 2015 by which the learned court below has
rejected the application dated 28.06.2017 filed by the opposite
party-husband seeking D.N.A. test to establish the paternity of
the child of the applicant-wife.

Learned counsel for the petitioner does not dispute the
facts recorded in the impugned order. According to this, the



marriage between the parties was solemnized on 28.05.2013 and the applicant-wife after being neglected started living in her Maiké from 09.06.2014 when she was carrying a pregnancy. She gave birth to a male child who was one month old at the time of filing of the maintenance case on 23.02.2015.

The learned Principal Judge has found that the opposite party had though appeared in the maintenance case but did not file any written statement deliberately. The learned court below has passed an ad interim order on 08.09.2015 with direction to opposite party to pay Rs. 3,000/- per month but even that was not complied with. The applicant had examined her witnesses in the case and the opposite side cross-examined them and in spite of filing of the petition on 28.06.2017 he never pressed the said petition.

The learned Principal Judge took a prima facie view that under the provisions of Section 112 of the Evidence Act if a child born within 280 days of marriage which would be conclusively proved of the fact that the said child is born out of the wedlock between the parties.

Today, in course of hearing this court called upon learned counsel for the petitioner to say as to whether the petitioner has filed any application for annulment of marriage on the ground of



adultery, learned counsel says that petitioner has not filed any such application seeking annulment of marriage.

To this Court, therefore, it is crystal clear that at a belated stage when the case had already proceeded, only to linger the matter, the application dated 28.06.2017 was filed on behalf of the opposite party-husband and the same was kept pending on the record because it was not pressed. This was nothing but to some how create an obstacle in disposal of the maintenance case. The petition lacks bonafide.

This revision application has no merit. It is, thus, dismissed.

The learned Principal Judge, Family Court, Muzaffarpur shall proceed to enforce the order of ad interim maintenance.

Learned counsel for the petitioner submits that the learned Principal Judge has already proceeded to recover the amount, if it is so, he will do that expeditiously.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

