

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.884 of 2018

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

Md. Sonu Son of Md. Akhtar @ Md. Ashar Ahmed, Resident of Village-
Mohanpur, P.S.- Samastipur (M), District- Samastipur.

... .. Petitioner

Versus

1. The State of Bihar
2. Nausir Bibi, Wife of Md. Sonu,
3. Joya, Daughter of Md. Sonu, Both are resident of Village- Mohanpur, P.S.-
Samastipur M, District- Samastipur, at present residing of Mohalla- Kasipur,
Ward No.1, Harmonium Gali, P.S.- Samastipur Town, District- Samastipur.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Maria Nazir, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2, 3	:	Mr. Jitendra Narain Sinha, Advocate Mr. Shikha Roy, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 31-08-2022 Heard learned counsel for the petitioner and learned
counsel for the opposite party no. 2.

The petitioner in this case is aggrieved by and dissatisfied with the judgment/order dated 13.04.2017 passed by learned Principal Judge, Family Court, Samastipur in Maintenance Case No. 12 of 2015 whereby and whereunder the Principal Judge has held that the present opposite party no. 2 is legally wedded wife of this petitioner. It has been further held that this petitioner has got sufficient source of income and has willfully neglected his wife. The learned Principal Judge, Family Court, Samastipur has awarded a sum of Rs.5,000/- as maintenance per month to the opposite party no. 2.



Learned counsel for the petitioner has once again taken a plea that the opposite party no. 2 is not legally wedded wife of the petitioner. She has submitted that this petitioner was residing in Saudi Arab since 2014 and no notice of maintenance case was served upon him. He came to know that the opposite party no. 2 had filed a criminal case being C.R. No. 18 of 2015 against him for the offences alleged under Sections 498A and 354 of the Indian Penal Code. He moved in anticipatory bail in the learned court below and the learned Sessions Judge, Samastipur having come to know about the impugned order, vide order dated 26.03.2018 directed the petitioner to pay Rs.5,000/- per month to O.P. No. 2. Although in the body of the petition, it is stated that a copy of the order of the learned Sessions Judge has been marked as Annexure '2' to this petition but this Court finds that the copy of the said order has not been annexed.

Learned counsel for the petitioner has produced before this Court a copy of the order dated 26.03.2018 passed by learned Sessions Judge, Samastipur from which it appears that the petitioner has been granted privilege of anticipatory bail on the condition that he shall pay Rs.5,000/- per month to the complainant till the disposal of the case and on default of



payment of this amount, the bail shall deemed to be cancelled. This order has been passed subject to other conditions as laid down under Section 438(2) Cr.P.C.

Learned counsel for the petitioner submits that the petitioner has disputed his marriage with O.P. No. 2 but the learned Principal Judge, Family Court has rejected the said plea without consideration of the materials available on the record.

It is informed that the petitioner is presently working in Saudi Arab and the learned counsel for the petitioner was unable to contact him. On 05.08.2022, this Court had allowed the limitation petition and had permitted the petitioner to file a supplementary affidavit placing on record the annexures but the supplementary affidavit could not be filed because the petitioner was not available.

Learned counsel for the opposite party no. 2 has opposed this application. It is submitted that the learned Principal Judge, Family Court has considered the plea advanced on behalf of the petitioner saying that the O.P. No. 2 is not his legally wedded wife. It has been held on the basis of the materials available on the record that the petitioner had solemnised a love marriage with O.P. No. 2 and they have got a daughter out of the said wedlock who was born in the 2015. The



petitioner had gone to foreign country for earning and he is working as a driver. He did not maintain his wife and minor child. In such circumstance, the learned court below has awarded the maintenance amount which is a meagre amount of Rs.5,000/-.

Learned counsel further submits that the petitioner has violated the condition imposed by learned Sessions Judge in A.B.P. No. 431 of 2018. He has not paid any money to the opposite party no. 2 and has gone abroad violating the condition under Section 438(2) Cr.P.C. In terms of the order of the learned Sessions Judge, the anticipatory bail granted to the petitioner shall be deemed to have been cancelled.

This Court has been informed that the learned court below has issued warrant of arrest against the petitioner.

Having regard to the submissions noted hereinabove and the materials available on the record, this Court is of the considered opinion that the plea with regard to validity of marriage taken by the petitioner is only taken to avoid the responsibility towards his wife and minor daughter. The petitioner is admittedly working in Saudi Arab. He had obtained anticipatory bail on condition that he will pay Rs.5,000/- per month but he did not abide by the same and left India without



permission of the court.

This Court further finds that the amount of maintenance awarded to the opposite party no. 2 and her minor daughter is only a meagre amount and in the present days' price index of the country, this amount cannot be said to be excessive. No reason for interference with the impugned judgment/order may be found from the submissions of learned counsel for the petitioner.

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

(Rajeev Ranjan Prasad, J)

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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'.

