

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.729 of 2018

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

MD. NASAR ANSARI @ MD. NASAR ALAM @ NASAR ALAM, S/o Md. Aziz Ansari @ Mohammad Ajiz, Resident of Village- Birnagar, Tola Kadbaha (Kadwaha), P.S.- Bharagama, District- Araria.

... .. Petitioner

Versus

1. The State of Bihar
2. Bibi Nushrat Khatoon @ Bibi Nusrat Parween , D/o Md. Safat @ Md. Safat Ansari @ Safique Ansari, Resident of Village- Birnagar, Tola Kadbaha (Kadwaha), P.S.- Bharagama, District- Araria

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Md. Naushad Uzzoha, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-07-2022 Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner is aggrieved by and dissatisfied with the judgment dated 19.04.2018 passed by learned Principal Judge, Family Court, Araria in Maintenance Case No. 346 of 2016 whereby and whereunder the learned court below directed the petitioner to pay Rs. 4,000/- per month to the opposite party no. 2 from the date of the judgment.

By the impugned judgment, the learned court below has directed the petitioner to pay a sum of Rs. 4,000/- per month towards maintenance allowance to his wife from the date of the judgment i.e. 19.04.2018.



Learned counsel for the petitioner has assailed the impugned judgment on the solitary ground that in the learned court below a specific plea was taken on behalf of the petitioner that the opposite party no.2 before this Court is not his wife. Learned counsel submits that since the petitioner has denied the marriage with the opposite party no.2, the learned Principal Judge, Family Court should have considered his submission.

This Court has perused the impugned judgment. It appears that on behalf of the applicant-wife who is opposite party no.2 before this Court, six witnesses were examined and all of them have consistently stated that the marriage between the petitioner and the opposite party no.2 was solemnized on 29.03.2016 according to Muslim rites and customs and the opposite party no.2 had gone to her matrimonial house also with sufficient gifts but after some time her husband and his family members started demanding a cash of Rs. 2,00,000/- as dowry and since the same was not fulfilled the opposite party no.2 was ousted from her matrimonial house.

This Court further finds that the learned court below has dealt with the evidence of the petitioner who deposed himself as D.W.1 in the learned court below. He has admitted the marriage with the opposite party no.2 but his plea was that



the marriage was performed by virtue of a conspiracy of the parents of the petitioner and he had put his signature on the Nikahnama under fear of parents. The opposite party has deposed that he works as a mason.

This Court finds from the materials available on the record that the petitioner is not denying his marriage but is trying to avoid his responsibility as husband of the opposite party no.2. His income as a mason is also not in dispute. The learned court below has awarded a meagre amount of Rs. 4,000/- per month towards maintenance allowance to his wife. Even if at the relevant time the wages of the petitioner as a mason is taken into consideration, it would not be less than Rs. 400/- per day in the year 2018 which has gone on to increase up to Rs. 700/- per day now-a-days. In such circumstance, the award of Rs. 4,000/- per month is not unreasonable and needs no interference by this Court.

Learned counsel for the petitioner is unable to say as to whether the petitioner is paying the amount to his wife or not. If the petitioner is found defaulting in payment for more than six months as on date, the learned court below shall realize the entire outstanding amount with interest at the rate of 12% per annum with a cost of litigation of Rs. 15,000/- from the



petitioner and the same will be paid to the opposite party no.2.

Let the impugned judgment be imposed expeditiously.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

U		T	
---	--	---	--

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'.

