

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47628 of 2015

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

Ranjeet Thakur son of Bhagwat Thakur resident of village - Mahanwa, P.S.
Majhawalia, District - West Champaran.

... .. Petitioner

Versus

1. State Of Bihar.
2. Smt. Neelu Kumari wife of Ranjit Thakur Daughter of Daljit Narayan Tiwary Resident of Village - Barharwa Kale, P.S. - Kotwa, District - East Champaran.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr.Binod Kumar, Advocate
For the State	:	Mr.A.Dayal, APP
For the O.P. No. 2	:	Mr.Anuj Kumar, Advocate
		Mr.Shyam Kishore, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 13-09-2023 Heard learned counsel for the petitioner and learned
counsel for the Opposite Party No. 2.

2. This application has been filed for setting aside the order dated 26.06.2015 passed by the learned Principal Judge, Family Court, East Champaran, Motihari in Misc. Case No. 18 of 2014.

3. From the narration of facts present in the application, it appears that the Opposite Party No. 2 has filed a maintenance case under Section 125 Cr.P.C. giving rise to Maintenance Case No. 406/10 in which the petitioner did not appear despite proper service of notice, as stated in Paragraph '3' of the order. The learned Principal Judge, Family Court



awarded a maintenance of Rs. 5,000/- per month to the applicant from the date of institution of the case and the same was payable within two months from the date of order failing which it is to be realized through the process of the Court.

4. It is only when the petitioner failed to abide by the order of the learned Principal Judge, Family Court, the present Misc. Case has been lodged in the year 2015 in which initial attempt was made for reconciliation but had failed whereafter the learned Principal Judge has issued warrant of arrest against the Opposite Party No. 2 for recovery of the amount.

5. Learned counsel for the petitioner submits that from the impugned order it would appear that on the very first date after the reconciliation failed, the learned Court issued warrant which is not just and proper as the petitioner should have been given opportunity to comply with the order of which the dis-obedience was pleaded.

6. It is submitted that in Cr.Misc. No. 49578 of 2014 while considering the prayer for anticipatory bail of the petitioner, an arrangement was thought of and the petitioner had deposited a sum of Rs. 3,20,000/- and a bank draft for the said amount was handed over to the Opposite Party No. 2 but she was not ready to receive the same in full and final settlement



which was mentioned in the order dated 17.09.2014. Learned counsel submits that in the order dated 17.09.2014 it is recorded that the petitioner was ready to pay a sum of Rs. 7,50,000/- as one-time settlement whereas the Opposite Party No. 2 was demanding a sum of Rs. 35,00,000/-.

7. Be that as it may, the submission is that the impugned order has been passed without taking note of the developments which had taken place before the Hon'ble High Court in Cr. Misc. No. 49578 of 2014. Learned counsel submits that the warrant of arrest has been issued in a hurry even as the matter was being discussed for purpose of reconciliation before the Hon'ble High Court.

8. Learned counsel for Opposite Party No. 2 has opposed this application. It is submitted that the order of maintenance passed under Section 125 Cr.P.C. has attained finality, therefore, the petitioner would be obliged to abide by the said order.

9. Having regard to the facts and circumstances of the case and the materials available on the record, this Court finds that the impugned order has been passed on 26.06.2015 during the pendency of Cr. Misc. No. 49578 of 2014. During this period, the petitioner had placed before this Court bank draft of



certain amounts which were also accepted by the learned counsel for the complainant and the same was acknowledged as is evident from the order dated 11.02.2014 passed by this Court in Cr. Misc. No. 49578 of 2014. Apparently, these facts were not placed before the learned Principal Judge, Family Court.

10. In these circumstances, this Court is of the considered opinion that the learned Principal Judge, Family Court is not justified in issuing a warrant against the Opposite Party No. 2 on 26.06.2015. The impugned order dated 26.06.2015 in so far as in direct issuance of a warrant against the present petitioner is hereby set aside.

11. This application is allowed to the extent indicated hereinabove.

12. It will be open for the learned Principal Judge, Family Court, East Champaran, Motihari to proceed with the Misc. Case No. 18 of 2014 and take the same to a logical end in accordance with law.

(Rajeev Ranjan Prasad, J)

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