

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41337 of 2022

Arising Out of PS. Case No.-341 Year-2015 Thana- BUDDHACOLONY District- Patna

NITISH KUMAR @ BABLU KUMAR @ BABLU Son of Late Bhupendra
Singh Resident of Village - and P.O.- Beyapur, P.s.-Maner, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sabita Kumari D/o Harinarayan Rai At present residing at muhalla - Devanti
Bhawan Dujara, Pehalwanghat, P.s.- Buddha Colony, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uday Kumar

For the Opposite Party/s : Mr.Bal Mukund Prasad Sinha

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 06-07-2023 This application has been filed for quashing the

order dated 17.01.2019 passed by the learned Sub-Divisional
Magistrate, Patna in G.R. No. 9048 arising out of Buddha
Conoly P.S. Case No. 341/2015.

Learned counsel for the petitioner submits that out
of total amount of Rs. 3,23,000/- (3 Lacs 23 thousands), he has
already paid Rs. 3,05,000/- (3 Lacs 5 thousand) and he further
hands over a cheque of Rs. 18,000/- (18 Thousands) to the O.P.
no. 2 as the balance amount of maintenance.

Learned counsel for the O.P. No. 2 submits that the
dues of Rs. 64,000/- and not 18,000/-.

Learned counsel for the petitioner submits that



Petitioner is the brother in law (Devar) of the O.P. No. 2 and there is general and omnibus allegation against the petitioner.

The petitioner has also relied upon the judgment of Hon'ble Supreme Court in the case of ***Kahkashan Kausar and Ors Vs State of Bihar and Ors*** reported in ***AIR 2022 SC 820***.

The learned APP for the State has opposed the prayer of the petitioner and has submitted that the prayer of the petitioner may be dismissed.

I have considered the submissions of the parties. So far as the allegations against the petitioner is concerned, they are general and omnibus.

Considering the aforesaid submissions of the parties and also considering the law laid down by the Hon'ble Supreme Court in the case of ***Kahkashan Kausar and Ors Vs State of Bihar and Ors*** (*Supra*), this application is allowed.

Accordingly, the order dated 17.01.2019 passed by the learned Sub-Divisional Magistrate, Patna in G.R. No. 9048 arising out of Buddha Conolly P.S. Case No. 341/2015 is hereby quashed.

It is directed that the husband of the petitioner will pay regular maintenance to the petitioner and in case of default by the husband, O.P. No. 2 has all the liberty to initiate proper



proceeding against her husband.

The Matrimonial Case No. 1012/2015 and the Maintenance Case No. 443CM of 2019 pending in the Court of Principal Judge, Family Court Patna/ Additional Principal Judge Family Court, Patna shall be decided within three months of communication of this order.

The Additional Principal Judge, Family Court, Patna will decide the case in case of absence of Principal Judge, Family Court, Patna and he will no shy away from deciding this case saying that he is the incharge.

(Sandeep Kumar, J)

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