

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27312 of 2016

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

Prakash Prasad Son of Ram Sahay Mahto @ Mahto of Village- Chorsua, P.S.
Giriak, District- Nalanda.

... .. Petitioner/s

Versus

1. State of Bihar and Anr
2. Smt. Ajanta Devi alleged to be wife of Prakash Prasad D/o Late Rajo Mahto,
of Village Raghu Bigha P.S Nalanda, District- Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar
For the Opposite Party/s : Mr. J.Upadhyayapp

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 03-10-2023 The present petition under Section 482 of the Cr.
P.C., has been filed challenging the Maintenance Proceeding
arising out of Maintenance Case No. 136 M of 2012 filed by
Opposite Party No.2, Smt. Ajanta Devi, in the Court of Ld.
Principal Judge, Family Court, Bihar Sharif, Nalanda.

2. The case of the Petitioner is that the Opposite Party,
Smt. Ajanta Devi is not a legally wedded wife of the Petitioner
in view of the fact that before she married the Petitioner, she
was already married with one Paras Prasad and her marriage
with Paras Prasad is still not dissolved by competent Court.
Hence, she is not entitled to get maintenance from the Petitioner.

3. However, Ld. Counsel for the Petitioner admits that
prior to the present petition under Section 482 Cr.P.C., he has



not filed any application before the Family Court. He has preferred the present petition directly before this Court, whereas he should have first approached the Family Court by way of interim application in the maintenance case challenging the maintainability of the maintenance proceeding.

5. Hence, the present petition is premature and liable to be dismissed.

6. Accordingly, the present petition is dismissed as premature. However, the Petitioner is at liberty to raise legal objection before the Family Court regarding maintainability of the Maintenance Proceeding before the Family Court.

(Jitendra Kumar, J)

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