

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4306 of 2022

Arising Out of PS. Case No.- Year-0 Thana- District- East Champaran

Shah Alam S/O Rayajul Haque @ Shekh Reyazul Resident of Village-
Purushotampur, P.S.- Chhauradano, Distt- East Chamaparan

... .. Petitioner

Versus

1. The State Of Bihar
2. Raisha Khatoon W/o Shah Alam Resident of Village- Sukharhi, Mehta
Mishan Chowk, P.S.- Motihari, Distt- East Champaran

... .. Opposite Parties

Appearance :

For the Petitioner : Mr.Bal Govind Sharma, Advocate

For the Opposite Parties : Mr.Shailendra Kr Singh, Addl Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 21-02-2024 Heard learned counsel for the parties

2. The petitioner prays for quashing the order dated 20-11-2019 passed by Principal Judge Family Court, Motihari, East Champaran in Maintenance case No. 349/2017 instituted on 18.10.2017 under sections 125 Cr.P.C. by which order the learned Principal Judge Family Court, Motihari allowed interim maintenance of Rs. 4000 per month in favour of O.P. No. 2 erroneously without applying his judicial mind.

3. Prosecution case in brief is that the complainant Rayeesa Khatoon filed a maintenance case on 18.10.2017 for her maintenance before the court of Principal Judge Motihari, East Champaran stating therein that her marriage was solemnized in the year 2013 with her cousin brother Shah Alam(



the petitioner herein) and from the wedlock a son was born on 14.10.2014. She further stated that he kept her at the house of her uncle (Mousa) at Raxaul for two months from where he carried to his house at Purusotampur where his father, mother, brother used to assault to the complainant. Later on her husband ousted her from matrimonial place after snatching her belonging thereafter she returned to her parental house.

4. Petitioner denies the allegation and submits that he never solemnized marriage with opposite party no.2 as the petitioner was already married with another lady in 1998 with Sugun Nisha and from the wedlock he has three children. He submits that the alleged marriage is illegal and not valid in the eye of law, as such, order for payment of Rs.4000/- to opposite party no.2 is nothing but abuse of process of the Court.

5. It is well settled that question of legality and validity of marriage cannot be examined in an application filed under section 482 of the Code of Criminal Procedure. The Hon'ble Apex Court in the case of **Chanmuniya Vs. Virendra Kumar Singh Kushwaha and another**, reported in **JT 2010 (11) 132** held that strict proof of marriage should not be the condition for maintenance. Besides this, nowadays maintenance amount of Rs. 4000/- cannot be said to be harsh and excessive



keeping in view inflation and soaring price of the commodities of daily usages.

6. Considering the facts and circumstances of the case as well as law laid by the Hon’ble Apex court in case of **Chanmuniya (supra)** in this circumstance, impugned order dated dated 20-11-2019 passed by Principal Judge Family Court, Motihari, East Champaran in Maintenance case No. 349/2017, directing the petitioner to pay Rs.4000/- to opposite party no.2 as interim maintenance, cannot be said to be harsh and excessive.

7. Present quashing application is dismissed having no merit.

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(Prabhat Kumar Singh, J)

