

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39907 of 2015

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

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Mathura Nand Prasad @ Mathura Nand Prasad Singh @ Mathuranand Singh
Son Of Bijendra Singh, Resident Of Village- Scudah, P.S.- Harnaut Chero OP,
District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chandrawati Devi @ Prachi Sinha daughter of Shivaji Singh @ Shivrinarayan Singh
3. Mallu Singh @ Manish Kumar son of Late Nageshwar Singh
Both are resident of Village + P.S.- Telmar, District- Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyaya, APP
For the O.P. No.2	:	Ms. Kumari Sujeeta Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

11 28-06-2024 Heard Ld. counsel for the petitioner, Ld. APP for the
State and Ld. counsel for the O.P. No.2.

2. The present petition under Section 482 Cr.PC has
been filed for quashing the order dated 08.06.2015 passed in
Misc. Case No. 11 of 2011 arising out of Maintenance Case No.
42(M) of 2009 by the Family Court, Nalanda. By the impugned
order, Ld. Family Court has issued Distress Warrant against the



petitioner on account of non-payment of due maintenance amount of Rs.2,04,000/-.

3. Ld. counsel for the petitioner submits that the petitioner has paid the whole due amount which was due in terms of order dated 05.05.2011 passed by Ld. Family Court in Maintenance Case No. 42(M) of 2009. He also submits that he has also filed one Misc. Case under Section 127 Cr.PC for setting aside the aforesaid maintenance order dated 05.05.2011 passed in the aforesaid maintenance case, because, as per his claim, the wife who is O.P. No.2 herein is living in adultery with O.P. No.3. But that Miscellaneous Application is not being disposed of by Ld. Family Court.

4. However, Ld. counsel for the O.P. No.2 (wife) submits that whole due amount as per direction given in order dated 05.05.2011 passed by Ld. Family Court in Maintenance Case No. 42(M) of 2009 has not been paid.

5. It also transpires during course of argument that Criminal Revision bearing No. 710 of 2011 filed by the petitioner against the aforesaid maintenance order dated 05.05.2011 has been dismissed by this Court vide order dated 12.03.2012 and thereafter that order dated 12.03.2012 of this Court is not further challenged in the Apex Court. As such, the



order dated 05.05.2011 subsists and petitioner is liable to pay the total amount in terms of the order dated 05.05.2011.

6. As such, there is no illegality in the impugned order whereby Ld. Family Court has issued Distress Warrant against the petitioner for enforcement of the maintenance order dated 05.05.2011 passed by Ld. Family Court in Maintenance Case No. 42(M) of 2009, because at that point of time, there was claim of the O.P. No.2 that Rs.2,04,000/- had become due against the Petitioner towards maintenance in terms of the maintenance order.

7. Hence, this petition is dismissed with direction to the Family Court that he should seek statements of both the parties on affidavit regarding due amount, if any, and in case there is any due amount, Petitioner will be required to pay it to the O.P. No.2/wife within time as stipulated by Ld. Family Court failing which the Family Court is duty bound to take coercive measure against the husband for enforcement of the maintenance order.

8. In view of the grievance of the Petitioner that Family Court is not disposing of his miscellaneous case filed by him under Section 127 Cr.PC, Ld. Family Court is directed to dispose of the aforesaid Misc. Application of the



Petitioner/husband within one month.

9. Accordingly, the present petition stands dismissed
with the aforesaid directions.

(Jitendra Kumar, J.)

S.Ali/ravishankar

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