

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38836 of 2022

Arising Out of PS. Case No.-292 Year-2017 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

MD. RAZBUDDIN S/O MD. HUKUM Resident of Village- Badi Lakri, P.S.-
Basantpur, (OP Lakdi Nabiganj), District- Siwan

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. REHANA KHATOON W/O MD. RAZBUDDIN, D/O HASHIM Resident
of Village- Katalpur, P.S.- Baikunthpur, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Gajendra Kumar Singh, Advocate
For the State	:	Mr. Anand Mohan Prasad Mehta, APP
For Opposite Party No.2	:	Md. Ziaul Quamar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 20-03-2024 1. Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the
complainant/Opposite Party No. 2.

2. This application has been filed under Section 482
of the Code of Criminal Procedure, 1973, on behalf of the
petitioner for quashing the order dated 24.05.2022 passed by the
court of learned 5th Additional Sessions Judge, Gopalganj, in
B.P. No. 146 of 2022 arising out of Complaint Case No. 292 of
2017 whereby the learned court below, while granting regular
bail to the petitioner, has directed to pay Rs. 3,000/- (Three
thousand rupees) per month as maintenance cost apart from the
maintenance cost of Rs. 4,000/- (Four thousand rupees) per



month directed by the learned Principal Judge, Family Court, Gopalganj.

3. The prosecution story in brief is that the complainant/Opposite Party No. 2 got married with this petitioner on 07.02.2015 as per Muslim rites and rituals and a child was also born out of the wedlock. It is alleged that at the time of marriage, various articles were given as dowry. It is further alleged that this petitioner along with other accused persons started torturing and harassing the complainant/Opposite Party No. 2 for dowry and also assaulted her.

4. It is submitted by learned counsel appearing on behalf of the petitioner that the learned Principal Judge, Family Court, Gopalganj, after taking into consideration the rival submissions and materials available on record, had come to a conclusion that Rs. 4,000/- (Four thousand rupees) towards monthly maintenance would suffice, which also included the maintenance towards the child. It is next submitted that the petitioner had got all these facts to the notice to the court of the learned 5th Additional Sessions Judge, Gopalganj, wherein the petitioner's regular bail application was pending. However, without considering the said fact that the learned Principal



Judge, Family Court, Gopalganj, had already fixed the monthly maintenance of Rs. 4,000/- (Four thousand rupees) for the complainant/Opposite Party No. 2 and the child, the learned 5th Additional Sessions Judge, Gopalganj, while passing the impugned order dated 24.05.2022 granting regular bail to the petitioner, has fastened the condition that the petitioner would pay the amount of Rs. 3,000/- (Three thousand rupees) per month towards the maintenance of the child. The petitioner is thus aggrieved by the aforesaid part of the impugned order.

5. Learned counsel appearing on behalf of complainant/Opposite Party No. 2 admits that the petitioner has already paid the entire amount of maintenance as directed by the learned Principal Judge, Family Court, Gopalganj, to the complainant/Opposite Party No. 2.

6. Considering the rival submissions advanced by learned counsels appearing on behalf of the parties and the aforesaid facts and circumstances of the case, since the amount of Rs. 4,000/- (Four thousand rupees) per month maintenance is already being paid by the petitioner to the complainant/Opposite Party No. 2, there was no occasion for the learned 5th Additional Sessions Judge, Gopalganj, while granting regular bail to the petitioner, to direct the petitioner to pay an



amount of Rs. 3,000/- (Three thousand rupees) per month towards maintenance of the child. After taking into consideration the entire facts and circumstances of the case, the learned Principal Judge, Family Court, Gopalganj, has already decided the amount of Rs. 4,000/- (Four thousand rupees) per month towards maintenance, which include the maintenance of the complainant/Opposite Party No. 2 and the child.

7. Accordingly, the part of the order dated 24.05.2022 passed by the learned 5th Additional Sessions Judge, Gopalganj, in B.P. No. 146 of 2022 arising out of Complaint Case No. 292 of 2017, whereby the learned court below has directed the petitioner to further pay Rs. 3,000/- (Three thousand rupees) per month as maintenance cost to the complainant/Opposite Party No. 2 for the child, is hereby quashed.

8. Accordingly, this quashing application is allowed.

(Prabhat Kumar Singh, J)

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