

(2022) 05 PAT CK 0057

Patna High Court

Case No: Criminal Miscellaneous No. 34696 Of 2021

Mathura Nand Prasad @
Mathuranand Prasad Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: May 16, 2022

Hon'ble Judges: Madhuresh Prasad, J

Bench: Single Bench

Advocate: D K Sinha, Abhinay Raj, Pushpa Sinha

Final Decision: Disposed Of

Judgement

1. Heard learned senior counsel for the petitioner and the learned Additional Public Prosecutor (for brevity, APP) appearing for the State of Bihar.

2 The petitioner has assailed the order dated 01.02.2021 passed by Principal Judge, Family Court, Nalanda in Miscellaneous Case No 11 of 2011

arising out of Maintenance Case No 42 (M) of 2009.

3 Mr D K Sinha, learned senior counsel for the petitioner submits that pursuant to the order of Maintenance dated 05.05.2011, affirmed by this Court

in Criminal Revision No 710 of 2011 as well as in terms of the undertaking recorded in order dated 05.08.2016 passed by this Court in Cr Misc No

39907 of 2015, the petitioner has made the deposits.

4 He submits that otherwise also the complainant has no case as she is living in adultery and is also earning.

5 The brief background in which this application has been filed is that the petitioner has been directed to deposit Rs 3,000/- per month maintenance by

the Principal Judge, Family Court, Nalanda in Miscellaneous Case No 11 of 2011 arising out of Maintenance Case No 42 (M) of 2009. The same was

affirmed by this Court subsequently in Criminal Revision No 710 of 2011 wherein the petitioner had assailed the order dated 05.05.2011 passed in

Miscellaneous Case No 11 of 2011. The records further reveal that the petitioner subsequently had approached this Court by way of Criminal

Miscellaneous No 39907 of 2015 wherein the petitioner had expressed his willingness to make payment of arrears of maintenance allowance, as

awarded in Maintenance Case No 11 of 2011. In view of such submission, the matter was adjourned and stay was granted in respect of

Miscellaneous Case No 11 of 2011 arising out of Maintenance Case No 42 (M) of 2009.

6 The learned senior counsel for the petitioner submits that in spite of the stay remaining operative and in spite of the fact that the petitioner has

honoured his undertaking given in Criminal Miscellaneous No 39907 of 2015 by making deposit of an amount of Rs 2,04,000/-, Principal Judge, Family

Court has passed an order dated 01.02.2021 directing the petitioner to make deposit of the arrears which have accrued in the meantime. It is

submitted that the order of the Principal Judge is in violation of the stay granted in Criminal Miscellaneous No 39907 of 2015.

7 Learned APP has drawn attention of the Court towards the order dated 01.02.2021. She has submitted that the order passed by the Principal Judge

is in terms of the order passed by the Honâ€™ble Apex Court in Criminal Appeals No 1375 â€“ 1376 of 2013 in the case of Asian Resurfacing of

Road Agency P Ltd & Anr -Versus- Central Bureau of Investigation and, therefore, there is no infirmity in the order.

8 The Court is of the view that since the petitioner alleges the impugned order to be contrary to the interim order passed in Criminal Miscellaneous No

39907 of 2015, it would be appropriate for the petitioner to bring the developments leading to passing of the order dated 01.02.2021 by the Principal

Judge, Family Court, Nalanda on the records and to the notice of this Court in the already pending Criminal Miscellaneous No 39907 of 2015.

9 For the same, these parallel proceedings are undesirable, to say the least. Such multiplicity of litigation, when it is alleged that the impugned order is

in violation of the interim order passed by this Court in earlier case (Criminal Miscellaneous No 39907 of 2015) which is still pending, is not warranted.

10 The petitioner, needless to say, is at liberty to raise all the issues before this Court in the pending Criminal Miscellaneous No 39907 of 2015.

11 This application stands disposed of.