

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19456 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- AURANGABAD

1. Abhay Singh son of Late Bhubaneshwer Singh, Resident of village- Sera Bigaha,
P.s. Kutumba, District- Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. Babita Devi, Daughter of Late Kamleshwar Singh, Resident of village- Budhai
Khurd, P.S. Goh, District- Aurangabad

.... Opposite Party/s

Appearance :

For the Petitioner/s : Ms Leelawati Kumari, Adv.

For the Opposite Party/s : Mrs. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-05-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

This application under section 482 of the Code of
Criminal Procedure has been filed for quashing the order dated
23.01.2015 passed in Misc. Case No.43 of 2013 arising out of
Maintenance Case No. 42 of 2013, whereby the learned Principal
Judge Family Court, Aurangabad has directed the petitioner to pay
Rs.3000/- per month as interim maintenance to the opposite party
no.2 with effect from the date of filing of the application.

It is an admitted position that the opposite party no.2 is
the legally wedded wife of the petitioner. The couple has also been

blessed with a child out of the wedlock, who is minor. The child is living with the opposite party no.2.

The opposite party no.2 filed an application before the learned Principal Judge Family Court, Aurangabad stating therein that the marriage was solemnized in the year 1999 but subsequently, the petitioner started leading adulterous life. Due to that reason, she was subjected to cruelty and was thrown out of her matrimonial home. Her case is that she has no independent source of income whereas the petitioner is working in a private company at Delhi. He earns Rs.15,000/- per month as salary. The petitioner also owns 10 bighas of irrigated land from which he earns substantial amount. Further case of opposite party no.2 is that the petitioner drives a tempo in the evening hours and from that also he is earning about Rs.15,000/- per month.

The court below has considered the materials on record and passed the impugned order of interim maintenance taking into consideration the fact that the opposite party no.2 has no independent source of income whereas the petitioner has got sufficient means to maintain the opposite Party no.2 and their minor child.

Section 125 of the Code of Criminal Procedure provides summary remedy. The object of the section is just to protect the interest of a neglected and deprived wife and minor child. This

section gives effect to the natural and fundamental duty of a man to maintain his wife, children and parents etc. so long as they are unable to maintain themselves. After marriage, it is the duty of the husband to provide shelter and maintenance to the wife and minor child.

Regard being had to the facts and circumstances of the case, I am of the view that there is no illegality in the impugned order. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

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