

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3791 of 2015

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1. Jai Narain Singh son of Deo Baran Singh, resident of village- Hirachak,
Police Station Naubatpur, District Patna.

.... Petitioner

Versus

1. Smt. Kiran Sinha Daughter of resident of Sheikhpura, Police station
Gourichak, District Patna.

.... Respondent

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Appearance:

For the Petitioner : Mr. Sanjay Kumar Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

4 06-04-2016

Heard learned counsel, Mr. Sanjay Kumar Verma,

for the petitioner.

By the order dated 01.09.2012, the learned
Additional Principal Judge, Family Court, Patna directed the
petitioner to pay Rs. 5000/- per month as maintenance in
Matrimonial Case No. 125 of 2006. The grievance of the
petitioner is that the Court below has not properly assessed the
monthly income of the petitioner and has directed on presumption
only to pay Rs. 5000/- per month as maintenance to wife-
respondent.

According to the learned counsel for the petitioner,
Rs. 2000/- was directed by the Court concerned in Section 125 of
the Code of Criminal Procedure to pay the wife and the petitioner

is paying the same regularly.

Perused the order passed by the Court below.

It appears that the Court below has considered the payment of Rs. 2000/- according to the direction in Section 125 of the Code of Criminal Procedure. It is not the case here that the Court below has not at all considered the same. So far the assessment of petitioner's monthly income is concerned, admittedly, the petitioner was working as Supply Inspector on the date of passing of the order. The petitioner himself did not produce any chit of paper to show the salary he was getting. Therefore in such circumstances, the Court below presumed the salary of the petitioner.

Learned counsel for the petitioner submitted that in domestic violence case also maintenance has been awarded to the wife but the same fact was not considered by the Court below. From perusal of this writ application, I find that nowhere the petitioner has stated that he is paying maintenance as directed in domestic violence case. This Court in the Case of **Veena Kumari Vs. Srikant 2004 (4) PLJR 533** has held that if the wife has no source of income and the husband is avoiding to declare his income, the contention of the wife is to be relied upon. In the present case, the Court below has, therefore, not committed any

error in awarding the maintenance to the wife. It further appears that the wife has not opted either the maintenance passed under section 125 of Code of Criminal Procedure or the maintenance awarded by this impugned order.

In view of the above facts and circumstance, I find that no case for interference in supervisory jurisdiction is made out. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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