

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36735 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

=====

Amod Kumar Chaurasiya, Son of Late Shivdayal Chaurasiya, Resident of village -
Laxmipur, Police Station - Mahua, District - Vaishali

.... Petitioner

Versus

1. The State of Bihar
2. Puja Devi Wife of Amod Kumar Chaurasiya, Daughter of Shiv Dayal
Chaurasiya Resident of village - Ghoswar, Police Station - Hajipur, District -
Vaishali

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh, Advocate
Md. Harun Quareshi, Advocate

For the State : Mr. Ashraf Ansari, APP

For the Opposite Party No.2: Mr. Surendra Kishore Thakur, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-02-2016

By way of the present application under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the impugned order dated 02.03.2015 passed by the learned Principal Judge, Family Court, Vaishali at Hajipur by which the court has directed to pay Rs. 4,000/- per month as interim maintenance to the Opposite Party No. 2 under Section 125 of the Code of Criminal Procedure (For short 'the CrPC') till the final disposal of Maintenance Case No. 65 of 2013.

2. The facts of the case, in brief, are that the Opposite Party No. 2, namely, Puja Kumari has alleged that she was married



to the petitioner on 20.11.2011. She was being subjected to cruelty in her matrimonial home for non-fulfilment of demand of Rs. 2 lakhs and, ultimately, on 29.03.2012, she was ousted by the petitioner and his relatives from her marital home after snatching all her personal belongings. She has stated that being a house-wife, she is unable to maintain herself. She has stated that the petitioner runs a grocery-cum-general store and has got a flour mill. He is also running a business of tent house (supplying of furniture, shamiyanas and utensils). According to her, the petitioner earns Rs. 5 lakhs and Rs. 1.5 lakh per annum from the business and the landed property respectively. Despite having sufficient means, he has neglected the Opposite Party No. 2.

3. On the basis of such allegations, the Opposite Party No. 2 filed Maintenance Case No. 65 of 2013 under Section 125 CrPC in the court of the Principal Judge, Family Court, Vaishali at Hajipur seeking a monthly allowance of Rs. 10,000/- as maintenance from the petitioner.

4. The petitioner has contended that the allegations made by the Opposite Party No. 2 are false. She out of her own sweet will left her marital home. She has sufficient means to maintain herself and the petitioner being a daily wage earner has no sufficient means to pay any amount to the Opposite Party No. 2.

5. After hearing the parties, the learned Principal Judge, Family Court, Vaishali, vide order dated 02.03.2015, directed the petitioner to pay Rs. 4,000/- per month as monthly allowance to the Opposite Party No. 2 as interim maintenance till final disposal of the case under Section 125 of the CrPC.

6. The aforesaid order dated 02.03.2015 is under challenge before this Court in the present proceeding.

7. Mr. Vikram Deo Singh, learned counsel for the petitioner has contended that the amount of interim maintenance awarded by the learned Principal Judge, Family Court, Vaishali at Hajipur is excessive and it would be extremely difficult for the petitioner to comply with the order passed by the learned Principal Judge. He has submitted that the petitioner has got no regular source of income and is earning his livelihood by working under MANREGA Scheme launched by the Government of India. He has contended that the impugned order passed by the learned court below is based on no reasoning and the foundational facts necessary for awarding interim maintenance are wanting in the present case. Mr. Singh has contended that the petitioner is ready to keep his wife with dignity and honour, but out of her own sweet will, she has left her marital home.

8. On the other hand, Mr. Surendra Kishore Thakur,



learned counsel for the Opposite Party No. 2 has submitted that the petitioner has got sufficient means. He earns more than six lakhs per annum from the business and farming. However, he has ousted the Opposite Party No. 2 from her marital home. The Opposite Party No. 2 has expressed his unwillingness to go to her marital home apprehending physical harm due to persistent demand of dowry. Thus, there is a reasonable justification for wife's refusal to live with her husband. The petitioner's income is claimed to be from three sources. First, the income from a grocery shop, second income from tent house business and third, agricultural income. Though, the petitioner has claimed that he has no regular source of income, the true fact can only be ascertained while adjudicating the final claim by the learned Principal Judge. He has contended that the Opposite Party No. 2 is a destitute lady and has got no means to maintain herself. He submits that the Opposite Party No. 2 apprehends threat to her life due to persistent dowry demand and, hence, it would not be safe for her to go to her marital home.

9. I have heard respective counsel for the parties and perused the record.

10. Section 125 of the CrPC confers power upon the court to award interim maintenance pending final disposal. The marriage of the Opposite Party No. 2 with the petitioner is not in

dispute in the present case. It is also not disputed that the Opposite Party No. 2 is not living in her marital home.

11. The second proviso to sub-section (1) inserted by the Amending Act 50 of 2001 with effect from 24.09.2001 empowers the Court to grant interim maintenance pending consideration of the application under Section 125 of the CrPC. The interim maintenance awarded is neither excessive nor unjust nor unreasonable.

12. In that view of the matter, the application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

U		T	
---	--	---	--