

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40235 of 2016

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Shailendra Rai @ Shailendra Kumar Rai

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Tiwary, Advocate

For the Opposite Party/s : Mr. Anish Chandra, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

2 19.10.2016 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks modification of the order dated 17.08.2011 passed in Cr. Misc. No. 24426 of 2011 by which the petitioner was directed to pay a sum of Rs. 3000/- per month by way of interim maintenance for his wife and son with a condition that he would appear and attend the Court regularly at least for two years or till disposal of the case, whichever is earlier in Complaint Case No. 2769 of 2009 and Trial No. 2623/2010 and in the event of failure on four consecutive dates without any reasonable explanation or any default in payment, the privilege of anticipatory bail granted would be deemed to be cancelled.

Learned counsel for the petitioner submits that in the Maintenance case No. 186 of 2010, final order has been passed by the Principal Judge, Family Court, Saran (Chapra) on



10.10.2015 by which the petitioner's wife Sunita Devi and son Amit Kumar have been granted Maintenance of Rs. 5000/- and Rs. 2000/- respectively. However, a sum of Rs. 2000/- will be paid till his attaining majority. He states that now the order of interim maintenance to be paid by the petitioner to his wife and son as directed vide order dated 17.08.2011 by this Court has no consequence. He further submits that the additional condition for appearing regularly before the Court in the aforesaid Complaint Case for two years or till the disposal of the case, whichever is earlier has also since expired but the Complaint case No. 2769/2009 (Trial No. 2623/2010) is still pending.

Thus, learned counsel for the petitioner submits that the final order in maintenance would render the interim maintenance order by this Court on payment of Rs. 3000/- of no consequence. He further submits that the additional condition to appear before the Court for two years or till disposal of the complainant case has also lapsed.

In the facts and circumstances, the interim maintenance of Rs. 3000/- to the wife is of no consequence as by final order passed in the Maintenance case No. 186 of 2010 dated 10.10.2015, the petitioner has been directed to pay his wife a sum of Rs. 5000/- and Rs. 2000/- to his son till his attaining the

majority which he is regularly paying. However, since the complaint case is still pending being Complaint Case No. 2769/2009 (Trial No. 2623/2010 and condition of appearing regularly before the Court is modified to the extent that the petitioner will appear before the learned Sub Divisional Judicial Magistrate, saran at Chapra where the case is pending as and when required by the Court below.

With this observation, the modification application is allowed to the extent as indicated above.

(Nilu Agrawal, J)

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