

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23857 of 2015

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

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Sudarshan Pandey son of Murlidhar Pandey, resident of village- Mahuari, Police-
Station- Karakat, District- Rohtas.

.... Petitioner

Versus

1. The State of Bihar.
2. Aparana Devi wife of Sudarshan Pandey, resident of village- Mahuari, Police
Station- Karakat, District- Rohtas, presently residing at Care of Shailendra
Kumar Pandey, resident of Mohalla- Dhobi Ghat, Malviya Nagar, Gali No. 3,
Buxar, Police- Station- Buxar (Town), District- Buxar.

.... Opposite Parties.

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Appearance :

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

For the Opposite Party/s : Smt. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 26-02-2016

By way of the present application preferred under
Section 482 of the Code of Criminal Procedure, 1973 (for short
“CrPC”), the petitioner seeks quashing of the order dated
25.04.2015 passed by the learned Principal Judge, Family Court,
Buxar in a proceeding under Section 125 CrPC vide Maintenance
Case No. 135 (M) of 2013, whereby the petitioner has been
directed to pay Rs.2500/- per month as interim maintenance and
also to pay Rs.4000/- as litigation cost to opposite party no. 2.

2. It has been contended by learned counsel for



the petitioner that the amount awarded by the Court below is excessive and even though the petitioner is ready to keep his wife with full dignity and honour in her matrimonial home, she is not ready to live with the petitioner. She, out of her own, has deserted the petitioner. Hence, the opposite party no. 2 is not entitled to receive any amount from the petitioner as maintenance allowance.

3. *Per contra*, learned counsel for the State has contended that it would be apparent from the application filed under Section 125 CrPC before the Principal Judge, Family Court, Buxar that the opposite party no. 2 was subjected to cruelty in various ways in her matrimonial home for non-fulfillment of demand of dowry. She was ousted from her matrimonial home on 15.11.2012 and, thereafter, the petitioner was illegally married another lady. He has contended that the plea that the opposite party no. 2 has deserted the petitioner can only be proved by leading evidence. He has further contended that it would further be apparent from the complaint that opposite party no. 2 is leading a life of vagrancy, whereas, the petitioner having sufficient means to maintain his wife has neglected to maintain her.

4. In the instant case, there is no dispute that the

opposite party no. 2 is the legally wedded wife of the petitioner. The opposite party no. 2 has claimed that she is not able to maintain herself whereas her husband having sufficient means has neglected and refused to maintain her. Section 125 CrPC provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife.

5. The second proviso to sub-section (1) of Section 125 of the CrPC inserted by the amending act 510 of 2001 with effect from 24.09.2001 empowers the Court to grant interim maintenance pending consideration of the application under Section 125 CrPC.

6. Regard being had to the facts and circumstances of the case, in my view, the impugned order dated 25.04.2015 whereby the interim maintenance allowance of Rs.2500/- per month has been awarded to wife by the learned Principal Judge, Family Court, Buxar cannot be faulted with as it is neither excessive nor unjust nor unreasonable.

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

(Ashwani Kumar Singh, J.)

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