

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11636 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

- =====
1. Reyaz Ansari Son Of Rabali Ansari Resident Of Village- Majahar Toli, Khekhariya Tola, P.S.- Matiyariya, District- West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Alam Ara Khatoon Wife of Reyaz Ansari, Daughter of Mustakim Ansari Resident Of Village- Mazahar Toli, Khekhariya Tola, P.S.- Matiyariya, District- West Champaran. At Present

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey

For the Opposite Party/s : Mr. Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 18-07-2017

This is an application under Section 482 of the Cr.P.C. for quashing the dated 22.11.2013 passed by learned Principal Judge, Family Court, Bettiah, West Champaran, in Maintenance Case No. 11M of 2010 whereby and whereunder the petitioner was directed to pay Rs. 3000/- per month to the O.P. No. 2 as interim maintenance from the date of the filing of the maintenance.

2. Heard both sides.

3. The petitioner is husband of the O.P. No. 2. The wife, O.P. No. 2 filed a petition before court below on 19.08.2011 alleging that she was not being maintained by the petitioner. Her husband is a tailor and from the tailoring business, he earns Rs. 20,000/- per



month. As against this, the O.P. No. 2 has no source of income to maintain herself. The petitioner filed the rejoinder to the said petition denying the liability. But, he has admitted that he is doing tailoring work at Delhi and earns average income of Rs. 2500/- and anyhow, he saves Rs. 1000-1500/-.

4. It has been submitted on behalf of the petitioner that he is presently paying Rs. 500/- per month to the Opposite Party No. 2 as per direction given by this Court on 2.8.2011 in Criminal Miscellaneous No. 38843 of 2010. The court below has erred in awarding Rs. 3000/- per month as interim maintenance without ascertaining the actual income of this petitioner. The learned APP, on the other hand, opposed the submissions.

5. On perusal of the impugned order and annexures attached with this application, I find that the O.P. No. 2 in her petition dated 19.08.2011 at para-5 has specifically alleged that her husband is a skilled person having income to the tune of Rs. 20,000/- per month from the tailoring business besides annual income to the tune of Rs. 2,500,00/- from agriculture. The petitioner has denied this fact and has stated that he has no agricultural land. He however admits that he works as tailor in Delhi and earns to the tune of Rs. 2500/- only. The person having skill of tailoring is not expected to earn such meagre amount at Delhi. The learned Principal



Judge has rightly assessed his income and allowed maintenance to the O.P. No. 2 to the tune of Rs. 5000/- per month for her maintenance and medical aid. The petitioner has admitted that she is suffering from gynecological problem. The maintenance amount to the tune of Rs. 5000/- cannot be said to be exaggerated in present economic scenario.

6. In view of discussions made above, I find that this Criminal Miscellaneous application is devoid of merit and is accordingly, dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2017
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