

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47218 of 2014

Arising Out of PS. Case No.- Year- Thana- District- Begusarai

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Rahul Kumar son of Sri Surendra Pathak Resident of Village - Barauni - 2,
P.S. - Teghra, District - Begusarai.

... .. Petitioner/s

Versus

1.The State of Bihar.

2.Mamta Kumari @ Rinki Kumari wife of Rahul Kumar and daughter of Sri
Umesh Prasad Jha, resident of Village Barauni-2, P.S. Teghra, District
Begusarai and presently residing at Naya Tola, Phulwarishari, P.S.
Phulwarisharif, District Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Kumar Sinha, Adv
For the O.P. No. 2	:	Mr. T.N. Jha, Adv
For the State	:	Mr. SATYAVERAT VERMA(APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 13-12-2017

Heard learned counsel for the petitioner, learned
counsel for the O.P. No. 2 and learned counsel for the State.

This petition under Section 482 of the Cr.P.C has been
filed against the order dated 17.09.2014 passed by the court of



Additional Principal Judge, Family Court, Patna in Maintenance Case No. 02(M) of 2011 filed under Section 125 of the Cr.P.C by which the court has granted interim maintenance of Rs. 5000/- per month in favour of O.P. No. 2.

Briefly stated, the facts of the case is that marriage of petitioner with Opposite Party No. 2 was solemnized on 04.06.2009, as per hindu rites and customs. After marriage she went to her matrimonial home but she was subjected to cruelty and harassment and was ousted from her matrimonial home.

The petitioner had filed a divorce case against the Opposite Party No. 2 being Divorce Case No. 145 of 2010, which is pending before the Family Court, Begusarai. The Opposite Party No. 2 has filed a case under Section 125 of the Cr.P.C for grant of maintenance and during pendency of such petition, she had filed a petition for grant of interim maintenance.

It has been submitted on behalf of the petitioner that the petitioner earns his livelihood by giving tuitions and the interim maintenance granted by the court below of Rs. 5000/- per month is on higher side and petitioner is not capable to pay such huge amount as interim maintenance from his limited source of income and as such the order granting interim



maintenance may be set aside or modified. The relation between the petitioner and Opposite Party No. 2 as husband and wife still subsist and petitioner is obliged to maintain his wife.

Notices were issued to the Opposite Party No. 2 on 07.05.2015, and a direction was issued by this court to pay interim maintenance of Rs. 2500/- per month in stead of Rs. 5000/- as directed by the court below.

Learned counsel for the Opposite Party No. 2 has appeared and contested the matter stating that on the basis of income of petitioner-husband on the basis of evidence adduced before the Family Court interim maintenance of Rs. 5000/- was directed to be paid. It has been admitted by both the parties that pursuant to the direction of this Court dated 07.05.2015 interim maintenance of Rs. 2500/- is being paid to Opposite Party No. 2.

Considering the facts and circumstances of the present case, the court below is directed to finally decide the petition under Section 125 of the Cr.P.C and pass a final order within six months from the date of receipt/production of a copy of this order.

Till final order is passed by the Family Court, Begusarai, interim maintenance of Rs. 2500/- as directed by this Court shall continue till passing of the final order.



With the said direction and observation, the petition is
disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.12.2017
Transmission Date	18.12.2017

