

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10019 of 2014

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Ajay Kumar @ Praphul Kumar S/O Kapil Deo Singh Resident Of Village
Pandey Bigha, P.S. Atri (Tetua), District Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Nilu Kumari, wife of Ajay Kumar @ Praphul Kumar, resident of village
Pandey Bigha, P.S. Atri (Tetua) District-Gaya, At present D/o Shri
Babulal Singh, village-Warat, P.S. Sitamahri, Distt. Nawadah.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. R.B.S.Pahepuri (App)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

7 25-08-2017 Heard the parties.

This application under Section 482 of the Code of Criminal Procedure has been filed against the order dated 12.04.2012 passed by the learned Principal Judge, Family Court, Nawadah, in Maintenance Case No. 46 of 2007 by which the learned Principal Judge, Family Court, has allowed maintenance to opposite party no. 2 @ Rs. 3000/- per month.

Briefly stated fact of the case is that opposite party no. 2 was married with petitioner in April, 2000 as per Hindu rites and customs. Opposite Party no. 2 was subjected to torture for non-fulfilment of demand of dowry of Rs. One lac. It has further been stated that father of opposite party no. 2 made a payment of Rs.



50,000/- but even thereafter opposite party no. 2 was assaulted and tortured and subsequently she was driven out of her matrimonial home and thereafter she was residing at her parental home.

Opposite Party no. 2 has no means of her livelihood and her father has also retired from service and, as such, she cannot maintain herself. Petitioner is a man of substantial means and has income from his business and landed property. Opposite Party no. 2 filed a petition and claimed maintenance of Rs. 5,000/- per month giving rise to Miscellaneous Case no. 46 of 2007. Petitioner appeared in the Miscellaneous Case no. 46 of 2007 and stated in his show cause that opposite party no. 2 resided in her matrimonial house only for fifteen days and thereafter she went to her parental home without any rhyme and reason.

The contention of the petitioner is that he is a man of substantial means is not correct and total landed property of the joint family is only seven bighas. Petitioner has also denied demand of any dowry or torture or any assault upon opposite party no. 2. It has further been contended that opposite party no. 2 is residing in her parental home without any sufficient cause and petitioner is ready to keep her. Opposite Party no. 2 had filed a criminal case against the petitioner under Section 498A of the



Indian Penal Code and Sections 3 / 4 of the Dowry Prohibition Act being Complaint Case No. 882 of 2006 on the ground of demand of dowry and on account of non-fulfilment of the said demand opposite party no. 2 was subjected to assault and torture. Thereafter, the Miscellaneous Case was filed by opposite party no. 2 giving rise to Miscellaneous Case no. 46 of 2007 on the ground that she is unable to maintain herself and she cannot reside in her matrimonial house as she is subjected to torture and assault there. It has further been submitted that petitioner is a man of substantial means and he has substantial income from his landed property as well as business.

From the order dated 12.04.2012 it appears that during the pendency of this case a compromise petition was filed but subsequently petitioner appeared in due course and stated that he will not take opposite party no. 2 to her matrimonial home. Subsequently, he retracted from the compromise and he had stated in the open court that he would not abide by the terms and conditions of the compromise.

Evidences were led by both the parties and witnesses were examined on behalf of both the parties and they were cross-examined by the parties. Under the provisions of Section 125 of



the Code of Criminal Procedure if any person having sufficient means neglects and refuses to maintain his wife, unable to maintain herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make monthly allowance for the maintenance of his wife, as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct. On the basis of the evidence led by the parties and materials available on the record, the court below has found that petitioner has sufficient means and is able to maintain her wife. The court below has also found that opposite party no. 2 is unable to maintain herself and, as such, petitioner was directed to pay maintenance allowance of Rs.3,000/- per month to opposite party no. 2. Being aggrieved by the said order of maintenance petitioner has filed the present petition for setting aside the order dated 12.04.2012. The court below has meticulously considered the case of both the parties and after giving detailed reasonings and considering the evidence of witnesses and materials available on record has passed the order of maintenance in favour of opposite party no. 2.

After hearing both the parties and going through the order impugned annexed with this petition, I do not find any illegality or



irregularity in the order impugned passed by the court below. As such, no interference is required by this Court in its inherent jurisdiction under Section 482 of the Code of Criminal Procedure.

In the result, this petition is dismissed.

(S. Kumar, J)

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