

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10006 of 2014

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Vidya Bhushan Singh S/O Late Ram Bilas Singh Resident Of Village Rampur, P.O. Ope, P.S. Ekangar Sarai, District Nalanda And Of Flat No. 401 Sharddha Terrace, Shivalaya Society, Sus Road, Pashan, Pune-411021 And At Present Working As Senior Software Engineer, Geometric Ltd. Plot No. 15, M.I.D.C. Hinjewadi, Pune-411057.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Smt. Rashmi Singh W/O Sri Vidya Bhushan Singh Resident Of Village Rampur, P.O. Ope, P.S. Ekangar Sarai, District

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Sinha
For the Opposite Party No.2 : Mr. Rabindra Griyaghey & Mr. Sunil Kumar
For the State : Mr. Madhura Nand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

8 20-06-2017 This Criminal Miscellaneous has been filed for quashing the order dated 07.02.2012 passed by the Additional Principal Judge, Family Court, Patna in Maintenance Case No. 122 (M) of 2009, whereby and whereunder, the petitioner has been directed to pay Rs. 15,000/- only per month to his wife Smt. Rashmi Singh towards her interim maintenance from the date of the order and also to pay Rs. 20,000/- only in one lumpsum to his wife towards the cost of litigation.

Heard the learned counsel for the petitioner, the learned counsel for the opposite party no.2 and the learned APP



for the State.

Admittedly, the opposite party no.2 is the legally married wife of the petitioner and she has filed maintenance case under section 125 of the Cr.P.C. wherein after hearing both the parties the interim maintenance has been allowed as well as litigation cost as stated above.

On behalf of the petitioner it is submitted that his wife is residing in a flat owned by the petitioner and as such she is not paying any rent, whereas, the petitioner is residing in a rental flat and he has to pay rent. The interim maintenance has been allowed on the basis of the salary sheet for the month of September, 2007 of the petitioner and at that time the gross salary of the petitioner was Rs. 50143/- and after compulsory deduction, the take home salary of the petitioner was Rs. 41,820/- in the year 2007 and thereafter due to recession there is no enhancement in the salary of the petitioner. The petitioner has to bear the cost of litigation and also maintenance of his son borne out of the wedlock of the petitioner and opposite party no.2 and as such the amount of interim maintenance is very excessive and as such it may be modified.

The learned counsel for the opposite party no.2, on the other hand, submits that the salary of the petitioner must have



increased. The order has been passed on 07.02.2012 on the basis of the salary chart for the month of September, 2007 so the interim maintenance amount should be enhanced.

Having considered the submissions urged at the Bar, going through the record and the impugned order and noticing that the learned Additional Principal Judge, Family Court, Patna after hearing both the parties on merit on the interim maintenance petition had passed the impugned order. The relationship between the parties being very much strained and that is why both are living separately from each other and as such the petitioner being husband of the opposite party no.2 is liable to maintain his wife as per his income and status. The opposite party no.2 has claimed interim maintenance of Rs. 20,000/- per month for herself and Rs. 10,000/- per month for her minor son besides litigation cost of Rs.50,000/- in one lumpsum. She has produced the salary sheet of the petitioner for the month of September, 2007. In the rejoinder the petitioner has not denied his salary. It is an admitted fact that the petitioner is Software Engineer. It cannot be presumed that the petitioner at present will be drawing salary less than Rs. 1,00,000/- per month. On the basis of the salary sheet for the month of September, 2007 order has been passed on 07.02.2012 which appears quite proper, legal and justified.



Considering the position and status and further the income of the petitioner and also considering the day to day needs of the opposite party no.2 and further considering that the opposite party no.2 has got no residential problem as she is admittedly living in a flat owned by the petitioner, the learned Additional Principal Judge, Family Court, Patna has rightly allowed a sum of Rs. 15,000/- per month by way of interim maintenance to the opposite party no.2, the litigation cost granted at Rs. 20,000/- appears also not excessive and as such finding no merit in this petition the same is hereby dismissed. There is no need for any interference in the impugned order.

In the result, this Criminal Miscellaneous stands dismissed.

(Jitendra Mohan Sharma, J)

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