

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.30042 of 2014**

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

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1. Madan Mohan Prasad @ Munna Son of Raj Kishore Prasad Resident of Village and P.O. - Palghamberpur Kolhuwa, P.S. - Ahiyapur, District - Muzaffarpur, at present resident of Nisarapur Biruhari, P.O. - Gopinath Nagar, P.S. - Paltan Bazar, Gauhati, Assam.

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Vandana Kumari Wife of Madan Mohan Prasad @ Munna and Daughter of Bhubneshwar Prasad Resident of Village and P.O. - Shubhankarpur, P.S. - Kanti, Sub-Division and Munsif - Muzaffarpur, West, District - Muzaffarpur.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. M.C.Gandhi

For the Opposite Party/s : Mr. D.P.Tiwary, APP

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**

**ORAL JUDGMENT**

**Date: 04-07-2017**

This is an application under Section 482 Cr.P.C. to quash the order dated 24.08.2012 passed by Principal Judge, Family Court, Muzaffarpur in Maintenance Case No. 172 of 2009. The learned Principal Judge as per said order allowed maintenance to the tune of Rs. 4000/- per month in favour of O.P. No. 2 and the petitioner was directed to make payment every month latest by 15<sup>th</sup> of next month as interim maintenance.

2. The learned counsel for the petitioner submits that the O.P. No. 2 has flatly refused to go at the place of her husband. The



petitioner is doing business in Guwahati where he wants to keep his wife (O.P. No. 2) with full honour and dignity. This fact has not been considered by the court below. The learned counsel referred order passed by one of the coordinate of this Court passed on 17.03.2010 in Criminal Miscellaneous Application No. 27537 of 2009 wherein the hon'ble court has observed that the wife was not ready to accompany her husband. It was also submitted that the petitioner is economically not well to pay such amount as interim maintenance. The court below passed the impugned order without ascertaining the income of the petitioner and so the same is fit to be set aside / quashed. The learned APP on the other hand opposed this criminal miscellaneous by submitting that there is no illegality in allowing interim maintenance in favour of the O.P. No. 2.

3. On perusal of annexures available on record, I find that the relationship of the petitioner with the O.P. No. 2 is not in dispute. Admittedly, the petitioner is doing business in Guwahati. The O.P.No. 2 filed a complaint no. 694 of 2008 against the petitioner for the offence under Sections 498-A and 406 of the I.P.C. and 3/4 of Dowry Prohibition Act. The petitioner cannot take benefit of denial of his wife to accompany him. The strained relationship between wife and husband and her apprehension of life from the husband may be a ground of her refusal to go at the place of her



husband. In the above background, allowing interim maintenance to the tune of Rs. 4000/- per month in favour of the O.P. No.2 cannot be said to be exaggerated in present economic scenario.

4. In view of above facts, I do not find any merit in the present application. Accordingly, this Criminal Miscellaneous Application is dismissed.

**(Sanjay Kumar, J)**

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