

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2587 of 2014

Arising Out of PS.Case No. -65 Year- 2010 Thana -DOMESTIC VIOLENACE District- PATNA

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Kaleshwar Paswan , S/o Late Dukhan Prasad, R/o Village- Panapur,
Dilawarpur, P.O. – Madurapur, P.S.- Bidupur, District- Vaishali,
Presently posted as A/P-D.S.P. (H.Q.) Bhagalpur.

.... Petitioner/s

Versus

1. State of Bihar
2. Munni devi D/o- Dwarika Prasad, R/o Mohalla-Budhauli, Ward No. -
13 P.O.& P.S.- Shekhpura, Madurapur, District- Shekhpura.
Present Address- Bhuneshwar Ram (Adeshpal), Hadtalimore, Near Mal
Godam, P.S.- Shastrinagar, Dist.-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhisek

For the Opposite Party/s : Mr. Sanjay Kr.Pandey(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 10-07-2017 Heard both sides.

The opposite party no. 2 file a petition for quashing of the order dated 13.08.2013 passed in Judicial Magistrate 1st Class, Patna in Domestic Violence Case No. 65 of 2010, praying therein for payment of interim maintenance to her under Sections 18,19 and 20 of the Domestic Violence Act.

On 13.08.2013, the learned Judicial Magistrate 1st Class, Patna directed the petitioner to pay of Rs. 15,000/- (Fifteen Thousand) to the Opposite Party No. 2 for her interim maintenance from the salary of the petitioner.

The petitioner filed this petition under Section 482 of the Cr.P.C. inter alia on the grounds that opposite party no. 2 is not



legally wedded wife of the petitioner. In this case, the petitioner filed petition for D.N.A. test of the child of the opposite party no. 2 but she did not appear.

Learned counsel for the opposite party no. 2 raised preliminary objection about maintainability of the quashing the petition on the ground that in view of Section 25 of Domestic Violence Act, there is a provision for alteration of interim order if the petition is filed by the aggrieved party. It is further submitted that Section 29 of Domestic violence Act provides for appeal and there is an alternative and efficacious remedy and therefore, this quashing petition is not maintainable.

It appears that the order impugned is passed ex parte and thereafter the petitioner appeared on 04.03.2014.

Learned counsel for the petitioner submits that he may be allowed to withdraw the petition with liberty to present petition under Section 25 of Domestic Violence Act.

Having considered the submission of the parties, quashing petition is permitted to be withdrawn with liberty to the petitioner to file petition for altering the ex parte order and on this learned court below shall pass order in accordance with law.

(Prabhat Kumar Jha, J)

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