

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

**Criminal Miscellaneous No.32425 of 2014**

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Amarjit Pandey, S/o Sri Jagdish Pandey, Resident of Village Chausa, P.S. Chausa  
in the District of Buxar.

.... .... Petitioner/s

Versus

1. The State of Bihar.  
2. Kiran Devi, W/o Amarjit Pandey, and D/o Sri Ganesh Pandey, presently residing  
in village Amarapur Marbatia, P.S. Ara Mufassil in the District of Bhojpur.

... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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

**ORAL JUDGMENT**

**Date: 12-07-2017**

Heard learned counsel for the parties.

2. The petitioner has challenged the order dated 29.10.2013  
passed by the Family Court, Ara in Miscellaneous Case No. 247 of  
2010, whereby he has directed the petitioner to pay Rs. 3,000/- per  
month as interim maintenance to his wife/O.P. No. 2 and Rs. 2,000/-  
per month to his son, on an application filed under Section 125  
Cr.P.C. by the wife/O.P. No. 2.

3. It is an admitted position that the petitioner is a JAWAN  
in Indian Military Force.

4. Learned counsel appearing on behalf of the petitioner  
assails the impugned order on the ground that maintenance amount is  
excessive and it cannot be more than 1/5<sup>th</sup> of the salary of the  
petitioner. Further, he submits that in fact wife/O.P No. 2 has deserted



the petitioner and not living with him though he is ready to keep his wife.

5. Learned counsel appearing on behalf of the O.P. No. 2 submits that the petitioner's gross salary in the year 2014 was Rs. 31,872/- per month and in support of his contention, he files a copy of statement of his pay slip, so in this view interim maintenance amount is not excessive in any way. He submits that it is not a fact that wife/O.P. No. 2 has deserted the petitioner rather she was ousted by the husband and others, as further demand of dowry was not fulfilled, so she filed Ara Mufassil P.S.Case No. 129 of 2010 under Section 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act. It is not a fact that without any reason she is not living with her husband rather treated with cruelty and ousted from matrimonial home. He further submits that even during the pendency of bail of the petitioner, for the purpose of reconciliation, the court called both parties, O.P. No. 2 appeared but petitioner did not appear rather he filed a divorce suit i.e., Divorce Case No. 118 of 2012 but the same has been dismissed after trial by the Family Court.

6. Having considered submissions of both sides and on perusal of the record, it appears that petitioner is a JAWAN in Indian Military Force and in the year 2014 his gross salary was Rs. 31,872/- per month. The stand of the petitioner that wife deserted him gets



falsified from the judgment passed in divorce suit filed by the petitioner as the same was dismissed after trial because desertion was one of grounds in the Divorce Suit. So, the interim order of the Family Court directing the petitioner to pay interim maintenance of Rs. 3,000/- per month to his wife and Rs. 2,000/- per month to his son, is not excessive rather less than 1/5<sup>th</sup> of the salary of the petitioner. So finding no merit, this petition stands dismissed.

**(Arun Kumar, J)**

Sujit/-

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