

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26871 of 2014

=====

Saurabh Dutta Pandey, s/o Sri S.N. Pandey, r/o vill-Karja, PO-Umraoganj,
PS- Bihiya, Dist- Bhojpur (Ara)

.... Petitioner/s

Versus

1. State of Bihar
2. Arti Kumari Devi, D/o Late Shyam Sundar Tripathi, r/o vill-Jhunva,
PO-Benvalia, PS- Bihiya, Dist- Bhojpur (Ara)

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Soni Shrivastava, Advocate
: Mr. Ravi Bhardwaz, Advocate
: Ms. Madhuri Kumar, ADvocate
For the Opposite Party/s : Mr. Arun Kr. Pandey (APP)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 8 23-08-2017 1. Heard the learned counsel for the petitioner, learned
counsel for the opposite party no. 2 and the learned APP for the
State.
2. The petitioner seeks to assail the interim order dated
11.10.2012 passed by the learned Court of Chief Judicial
Magistrate, Family Court, Ara in Maintenance case no. 90 of 2011
whereby and whereunder, the trial court has allowed a sum of
Rs. 8,000/- per month to be paid to the opposite party no.2 as
maintenance allowance from the date of the order.
3. At the outset, it may be indicated that the aforesaid
order dated 11.10.2012 is purely interim in nature and this Court
should normally not interfere with such interim orders. However,
vide order dated 07.03.2013, notices have been issued in the



present case and it was directed that a sum of Rs. 4,000/- by way of interim maintenance be paid to the opposite party no.2.

3. The learned counsel for the petitioner has submitted that the amount so fixed by the trial court is excessive in view of the fact that at the moment, the petitioner is unemployed and is earning his livelihood by way of taking tuitions.

4. *Per contra*, the learned counsel for the opposite party no.2 submits that the Hon'ble Apex Court in somewhat similar situation has held that the wife and children are entitled to substantial amount of maintenance in accordance with the status of the husband, and the husband in the present case has a good earning/ status.

5. Having considered the aforesaid arguments of the parties, it appears that one aspect of the matter is common between the parties i.e. the amount of maintenance so allowed by the learned trial court is purely interim in nature and the finality is yet to be achieved.

6. For the reasons mentioned hereinabove, I deem it fit and appropriate to direct the parties to lead evidence before the learned trial court for the purpose of fixation of the final maintenance amount. I direct the learned trial court to decide the matter finally within a period of six months from today, after



taking into consideration all the arguments and documents as well as evidence adduced by the parties including the fact that the opposite party no.2 has got a small girl child.

In the meantime, I direct that the interim maintenance amount of Rs. 4,000/- per month, so fixed by this Court vide order dated 07.03.2013 passed in the present case, will be continued to be paid to the opposite party no.2 by the petitioner. If any arrears are there, the opposite party no.2 shall bring it to the notice of the trial court and the trial court shall pass an appropriate order for making payment of the same to the opposite party no.2.

7. The petition is disposed of in the aforesaid terms.

(Mohit Kumar Shah, J.)

rinkee/-

U		T	
---	--	---	--

