

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.276 of 2016

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1. Shyam Sundar Jha Son of Shri Yogendra Jha, resident of Village-
Brahmapura, Police Station- Phulparas, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rakhee Jha, daughter of Sri Rup Narayan Jha, resident of Village- Janki
Nagar, Mangrauni Road, P.S.- Rahika, District- Madhubani.

.... Respondent/s

with

Criminal Revision No.468 of 2016

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

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1. Shyam Sundar Jha, son of Shri Yogendra Jha, resident of village-
Brahmapura, Police Station- Phulparas, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rakhee Jha, daughter of Sri Rup Narayan Jha, resident of village- Janki
Nagar, Mangrauni, Road, P.S.- Rahika District- Madhubani.

.... Respondent/s

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Appearance :

(In CR. REV. No.276 of 2016)

For the Petitioner/s : Mr. Surendra Singh

For the Respondent/s : Mr. S.N. Prasad (App)

(In CR. REV. No.468 of 2016)

For the Petitioner/s : Mr. Surendra Singh

For the Respondent/s : Mr. Amitesh Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 17-01-2017 Both these applications have been heard together with

the consent of the parties and are being disposed of by a common

judgment and order.

2. In Criminal Revision No. 468 of 2016 the petitioner is



aggrieved by order dated 07.05.2015 in M. R. No. 200 of 2012 passed by learned Principal Judge, Family Court, Madhubani, whereby the petitioner has been directed to pay a sum of Rs. 10,000/-(ten thousand) for maintenance of the Opposite party No.2 and two children, under Section 125 of the Code of Criminal Procedure, 1973.

3. In Criminal Revision No. 276 of 2016, the petitioner is aggrieved by an order dated 18.02.2016 passed by the learned Principal Judge, Family Court, Madhubani in Miscellaneous Case No. 8 of 2015, whereby the petitioner's application for stay of distress warrant issued against him for non-compliance of maintenance amount has been rejected.

4. The petitioner is the husband of Opposite party No.2. As has been mentioned, by an order dated 07.05.2015 passed in M. R. No. 200 of 2012, the petitioner has been directed to pay maintenance at the rate of Rs. 10,000/-(ten thousand) per month. The petitioner has, admittedly not complied with the said order. He is said to have filed an application before the Principal Judge, Family Court, Madhubani on 20.07.2015 under Section 126 of the Code of Criminal Procedure, 1973(hereinafter referred to as the **Code**) on the basis that Opposite party No.2 has sufficient source of income, which fact she had concealed at the time of passing of



the order, on his application dated 20.07.2015. It is, accordingly, the plea of the petitioner that before issuing distress warrant, the Court below ought to have disposed of the petitioner's application filed on 20.07.2015.

5. It appears that the petitioner had filed an application seeking grant of anticipatory bail, which came to be allowed by this Court by order dated 25.06.2015 passed in Cr. Misc. No. 41123 of 2013, subject to the condition that the petitioner would pay the amount of maintenance ordered by the Family Court, Madhubani. In that background, the Court below refused the petitioner's request for staying of distress warrant by the impugned order.

6. Considering the facts and circumstances of the case, I consider it appropriate to dispose of the applications with observation that if the petitioner pays the entire maintenance amount to Opposite party No.2 in terms of the order passed by the learned Principal Judge, Family Court, Madhubani read with order of this Court dated 25.06.2015 passed in Cr. Misc. No. 41123 of 2013 within a period of one month from today, the Court below shall consider the petitioner's application filed under Section 126 of the Code. For one month from today, the execution of distress warrant shall remain stayed.



7. It goes without saying that payment of maintenance amount is a condition precedent for the petitioner remaining on bail in terms of this Court's order as indicated above.

8. These applications stand disposed of with the observation as aforesaid.

(Chakradhari Sharan Singh, J)

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