

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10016 of 2014

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Brajesh Kumar Singh S/O Late Bharat Prasad Singh Resident Of Village Bangra Chauhan Tola, P.S. Mashrak, District Saran at Present Qtr. No. B/52, Sector 13, Raurkela-9, P.S. Sector 15, District Sundargarh.

.... Petitioners

Versus

1. Richa Singh @ Bimi Singh D/O Late Suresh Kumar Singh Resident of Village Koshan, P.O. Hussaini, P.S. Kesaria, District East Champaran.
2. The State of Bihar.

.... Opposite Parties

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Appearance :

For the Petitioner	: Mr. Naresh Chandra Verma, Advocate
For the Opposite Party No.2	: Mr. Kumar Samarjeet Singh, Advocate
For the State	: Mr. Narendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 29-08-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 28.06.2013 passed by learned Principal Judge, Family Court, Motihari, East Champaran in Maintenance Case No.M-399 of 2011. The learned Principal Judge as per impugned order directed the petitioner to pay an amount of Rs.5,000/- per month for the maintenance of Opposite Party No.2 and her child.

2. Heard and perused the record.

3. It has been submitted that the Opposite Party No.2 is the labourer working in Orissa. He used to run Jhula in village fair and



getting Rs.2,000/- per month as salary. He has no landed property. As against this petitioner his wife Opposite Party No.2 is a Panchayat teacher and at the time of filing maintenance case she was getting Rs.6,300/- per month. She is now a regular teacher and getting salary to the tune of Rs.13,696/- per month. In support of his contention, the learned counsel filed a supplementary affidavit and bank statement of the account of Opposite Party No.2.

4. The learned counsel for the Opposite Party No.2 on the other hand submits that besides her maintenance she has a female child who is presently aged about 12 years. She is presently studying in Class-V. The Opposite Party No.2 requires Rs.3,000/- quarterly towards her fee besides the cost of medical treatment of the Opposite Party No.2. This Court as per order dated 01.10.2015 had directed the petitioner to pay half of the amount which was allowed by the court below but not a single farthing has been given to the Opposite Party No.2. The amount of maintenance awarded by the court below requires to be enhanced.

5. Perused the record and the annexures annexed with the petition and supplementary affidavit. The Opposite Party No.2 is Panchayat teacher and this fact is not denied by Opposite Party No.2. From the bank statement produced on behalf of the petitioner, it appears that an amount of Rs.13696/- is being credited monthly



towards the salary of Opposite Party No.2 in her account bearing no.32774939098. In the said account she has been described as teacher of Middle School, Dumarsan. The learned counsel for the Opposite Party No.2 admits this fact. As against this, there is nothing on record to show the income of petitioner to the tune of Rs.30,000/- as asserted by the Opposite Party No.2 in the court below. It is not the case of the Opposite Party No.2 that the amount of salary is not sufficient to meet the her need towards her maintenance as well as for the maintenance and education of her daughter. It appears that this Court as per order dated 01.10.2015 had ordered that no coercive steps will be taken against the petitioner in connection with Maintenance Case No.399 of 2011 pending before the Principal Judge, Family Court, Motihari, East Champaran till further order if he continues to pay half of the amount which has been allowed by the court below. The court below as per impugned order has directed the petitioner to pay an amount of Rs.5,000/- per month. The petitioner in spite of direction of this Court has not paid a single farthing and thus violated the order of this Court.

6. In the facts and circumstances of the case, I do not find any merit in this criminal miscellaneous application. The petitioner is bound to maintain the wife and her minor daughter who is presently aged about 12 years and studying in Class-V. The amount



of salary which is being presently drawn by the Opposite Party No.2 does not appear sufficient to maintain herself as well as her child in present economic scenario and so considering the facts and circumstances of the case and also the means of husband, the amount of compensation awarded by the court below to the tune of Rs.5,000/- is reduced to Rs.3,000/- per month. The petitioner however is directed to pay the ad-interim maintenance at the rate of Rs.2500/- per month which has been ordered earlier by this Court from the date of filing of Maintenance Case No.399 of 2011 till August, 2017. He is further directed to pay Rs.3,000/- per month from September, 2017 as interim maintenance.

7. With the aforesaid observation and direction, this criminal miscellaneous application is disposed of.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	04.09.2017
Transmission Date	04.09.2017

