

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34548 of 2014

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

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1. Sonu Choubey S/o Jai Prakash Choubey Resident of Village Shivpuri, P.S. Buxar (T), District Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha

For the Opposite Party/s : Mr. Kamlesh Prasad Yadav

For the State : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 08-08-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 06.11.2012 passed by the Principal Judge, Family Court, Bhojpur in Miscellaneous Case No. 94 of 2011 whereby and whereunder the learned Principal Judge allowed maintenance of Rs. 6,000/- per month as interim maintenance in favour of the Opposite Party No. 2 besides cost of litigation to the tune of Rs. 15,000/-.

2. Heard both sides.

3. The petitioner is the husband of the Opposite Party No.

2. His marriage was performed on 23.06.2010. The Opposite Party No. 2 in her application has alleged that her husband and in-laws used to torture her in connection with demand of further dowry.



Her husband and in-laws after retaining her articles assaulted and ousted from their house on 23.05.2011. Since then, she is leading a deserted life. She has further stated that her husband has three storied building over a piece of land measuring 2 kathas and he is earning to the tune of Rs. 20,000/- per month from the rent of the said house. The petitioner is a tutor and earns Rs. 10,000/- per month by teaching the students besides that he has agricultural land, which fetches income to the tune of Rs. 30,000/- per year. Her husband is the only son of his parents. Her father-in-law is in military service and earns Rs. 30,000/-. The petitioner has prayed for Rs. 10,000/- per month. The learned court below after hearing both sides allowed maintenance in favour of Opposite Party No. 2 as stated above.

4. The learned counsel for the petitioner submits that the petitioner is in military service and he is still willing to keep his wife with full honour and dignity. The Opposite Party No. 2 has filed a series of cases, which shows that she is adamant to harass the petitioner only to extort money. The petitioner has filed a matrimonial suit for restitution of conjugal rights, but on account of rigid attitude of his wife, he has filed a divorce case. The wife of the petitioner is not entitled to any maintenance and so, the impugned order is fit to be quashed.



5. The learned counsel for the Opposite Party No. 2 opposed the submissions. He submits that after marriage and filing of maintenance case, the petitioner has joined service in military and he is earning more than Rs. 25,000/- per month. A counter affidavit has been filed on behalf of the Opposite Party No. 2 along with a copy of deposition of Opposite Party No. 2. This petitioner has admitted his monthly salary to the tune of Rs. 25,000/- and so, there is no illegality in allowing interim maintenance to the tune of Rs. 6,000/- and also litigation cost of Rs. 15,000/- .

6. On going through the pleadings of both the parties and impugned order, I find that the petitioner is the only son of his parents. The father of this petitioner is / was in military service at the time of filing of maintenance case. This petitioner has admitted that he is in military service and getting Rs. 25,000/- per month. The Opposite Party No. 2 is presently residing at the place of her father. She has alleged that her husband used to torture her for which she filed a complaint case against her husband for the offence under Section 498-A of the Indian Penal Code. The matter was referred to Mediation Centre, Patna High Court, but to no effect. The learned Principal Judge after going through the pleadings of both the parties has rightly directed to pay an interim maintenance of Rs. 6,000/- per month against the petitioner. The



said order was passed in the year 2012, which in present economic scenario cannot be said to be exaggerated.

7. In view of the facts, I do not find any illegality requiring any interference under inherent jurisdiction under Section 482 of the Code of Criminal Procedure. This application is accordingly dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.08.2017
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