

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1459 of 2017

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Nitu Kumari @ Guriya

.... Petitioner/s

Versus

The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna &
Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pradeep Kumar Sinha

For the Opposite Party/s : Mr. AAG-9-Suryadeo Yadav

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 17-05-2017

Heard learned counsel for the petitioner and learned
APP for the State.

The present application has been filed for quashing of
the order dated 04.07.2016, passed by the learned Principal Judge,
Family Court, Muzaffarpur, in Maintenance Case No. 45/2011,
whereby, opposite party no.2 was directed to make payment of
interim maintenance amount of Rs.1500/-, per month, to the
petitioner. Hence, the petitioner is aggrieved by the quantum of
interim maintenance amount.

Though, initially the petitioner challenged the
impugned order by filing criminal writ application under Articles
226 and 227 of the Constitution of India but, a co-ordinate Bench
of this Court, vide order dated 19.09.2016, directed the petitioner
to file Appeal in terms of Section 19 of the Family Courts Act,
1984. Thereafter, another co-ordinate Bench of this Court, vide



order dated 13/12/2016, directed the petitioner to convert the present application into a quashing/revision application in view of the ratio laid down in the case of Raj Kumar Sah Vs. the State of Bihar and Anr. reported in 2008(4) PLJR 817, wherein, it was held that against an order granting maintenance under section 125 of the Cr.P.C., the remedy would be under section 19(4) of the Family Courts Act, 1984, and that the revision would be a criminal revision. But, in view of the ratio laid down, in the case of Md. Akil Ahmad vs. The State of Bihar and Anr. reported in 2016 (4) PLJR 968, wherein, it has been held that against an order granting interim maintenance under section 125 of the Cr.P.C, which would be an interlocutory order, the remedy of the petitioner lies under Article 227 of the Constitution of India.

Hence, learned counsel for the petitioner is permitted to convert this application into writ application under Article 227 of the Constitution of India.

(Dinesh Kumar Singh, J)

Ashwini/-

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