

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1030 of 2014

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

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1. Sweta Kiran, W/o Arnesh Kumar, D/o Late Hari Narayan, Resident of C/58, Police Colony, P.S. Gardanibag, Anisabad, District Patna Petitioner

Versus

1. The State of Bihar

2. Arnesh Kumar, S/o Rameshwar Yadav, Resident of 5/1A/1/C/30, Road No. 1 near water purification pump, Laxmi Nagar, P.S. Old Shangvi Pune 27. A/P working as Manager, C.A. Technologies, Survey No. 115/1, 16 and 21 Nanakram Guda, Village Sarilingam Pally, Municipality, P.S. Gachi Bowli, Hyderabad

.... Respondents

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Appearance :

For the Petitioner : Mr. Hare Ram Sah, Adv.

For the State : Mr. Dasrath Mehta, APP

For respondent no. 2 : M/S Uday Narayan Singh & Ramesh Kumar, Advs.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date: 15-01-2018

Heard the learned counsel for the parties.

2. The petitioner, who is the wife of respondent no. 2 has challenged the order dated 20.08.2014, passed by the Additional Principal Judge, Family Court, Patna, in Maintenance Case No. 69(M) of 2013 whereby the respondent has been directed to pay a monthly sum of Rs.8,000/- per month to the petitioner as maintenance from the date of passing of the order as well as a lump-sum amount of Rs.5,000/- towards the cost of litigation.

3. Learned counsel for the petitioner has drawn the attention of this Court to the fact that the respondent no. 2 is getting a total annual package of Rs.20,68,786/- from 1st of April, 2011 and it is regularly being increased yearly. There are other sources of income of the respondent as



well. In that event, it has been submitted that the monthly maintenance awarded is absolutely dismal and is not commensurate with the standard of living of the petitioner. The further ground of challenge is that despite the petitioner being unemployed, the Family Court, without assigning any reason, directed the maintenance to be paid from the date of the order and not from the date of filing of the application seeking interim maintenance. The date of filing of the application seeking interim maintenance is 02.12.2013.

4. On the contrary, the learned counsel for the respondent no. 2, with reference to the counter affidavit, has submitted that even at the time of marriage, the petitioner was employed as a microbiologist and, thereafter, she continued with her job. In fact, it has been submitted that the petitioner gave preference to her career rather than her matrimonial obligation and refused to join the respondent in her matrimonial home. He has further submitted that the petitioner has suppressed vital facts from the Court below and has obtained an order of maintenance which cannot be allowed to be continued in view of the fact that she is not unable to fend for herself.

5. In response to the aforesaid submission of the learned counsel for the respondent no. 2, it has been submitted on behalf of the petitioner that her employment was only for part time and when she could not complete her studies, her employment was discontinued and from the



date of filing of the application seeking interim maintenance, she is jobless and has to depend on the contributions by her father and other members of the family.

6. From the impugned order, it appears that no reason has been accorded by the Court below to make the order of interim maintenance effective from the date of passing of the order and not from the date of filing of the application.

7. This Court is also of the view that the cost of litigation awarded is excessively low and would not cover even the minimum expenses which is entailed in any litigation.

8. As such, the order, dated 20.08.2014, is modified to the extent that the maintenance amount of Rs.8,000/- per month shall be payable to the petitioner from the date of filing of the application of interim maintenance. Whatever amount is due after this modification of the impugned order shall be paid by respondent no. 2 to the petitioner within a period of eight weeks. The litigation expenses are enhanced to Rs.15,000/-, including Rs.5,000/- which has been accorded by the Family Court. As such, respondent no. 2 would be required to pay Rs.10,000/- more to the petitioner within the aforesaid period of eight weeks. While saying so, this Court has taken note of the fact that before the Family Court, the proceedings so far as the petitioner is concerned is over and the case is pending for the evidence of the respondent.



9. Needless to state that the Court below shall pass the final judgment without being prejudiced by the aforesaid order by which the order of interim maintenance has been modified.

10. The present petition stands partially allowed with the modification of the order, dated 20.08.2014.

(Ashutosh Kumar, J)

SA/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.01.2018
Transmission Date	N/A

