

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25738 of 2017

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1. Pankaj Kumar, S/o Late Satya Narayan Prasad, R/o Village Shamlendra Kumar Vidya Vihar, Road No. 4, Behind Laxmi High School, P.S. Dumra, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Satyendita Satyendra W/o Pankaj Kumar D/o Satyendra Kumar, R/o Vidya Sadan 195- Abhiyanta Nagar, West Bailey Road, Danapur Cantt. P.S. Rupaspur, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Patanjali Rishi
For the Opposite Party/s : Mr. Sri Atul Chandra

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 23-01-2018 The petitioner has sought modification of the order dated 07.01.2015 passed by a Bench of this Court in Cr. Misc. No. 6918/2014, whereby the provisional anticipatory bail was confirmed, but with a direction to pay to the opposite party no. 2 a monthly sum of Rs. 5,000/-.

Learned counsel for the petitioner has submitted that because of the impugned order the petitioner has been paying Rs. 5,000/- to opposite party no. 2, who is gainfully employed and is capable of maintaining herself. He has further submitted that the opposite party no. 2 is, in fact, employed in a better way than the petitioner and earns more than him.

Looking at the order, it appears that a dead end has



been created and for the petitioner to remain on anticipatory bail, he would be required to pay Rs. 5,000/- per month to the opposite party no. 2 without any opportunity to him to agitate about his financial strength or the increased financial strength of the opposite party no. 2.

It has been submitted on behalf of the petitioner that a maintenance case has already been filed by the opposite party no. 2, which is being tried by the learned Additional Principal Judge, Family Court, Patna.

Learned counsel for the opposite party no. 2, however, has submitted that she is required to be paid more as the child of the spouses is now studying at Bangalore and she has to incur an expenses of Rs. 6,000/- per month besides other miscellaneous expenses. Under those circumstances, the opposite party no. 2 has prayed that the order dated 07.01.2015 be not modified as till date, no order has been passed by the Family Judge in the maintenance case.

The order dated 07.01.2015 requires to be modified as it provides no opportunity to a party to a proceeding to agitate about either enhancement or annulment of any maintenance amount. Such orders cannot be permitted to remain on record for eternity. This would have the deleterious effect of even



influencing the orders passed by the Family Court in the maintenance petition.

In that view of the matter, the order dated 07.01.2015 is modified to the extent that the condition imposed on the petitioner to pay to the O.P. no. 2 an amount of Rs. 5,000/- P.M. is waived/removed.

However, in the present circumstances, when no order has been passed in the maintenance petition filed by the opposite party no. 2, it is directed that the petitioner, in the meanwhile shall continue to pay Rs. 5,000/- per month to the opposite party no. 2 for three months to be counted from the month of February, 2018 or till the disposal of maintenance case/ interim application preferred by the opposite party no. 2, whichever is earlier.

In the meantime, the concerned Family Court shall pass necessary orders on the maintenance petition/interim application of the opposite party no. 2. In case, interim application is filed on behalf of the opposite party no.2, that also shall be decided by the Family Court, within the aforesaid period of 3 months keeping in mind that the order dated 07.01.2015 has been modified and the petitioner has been directed to pay a monthly sum of Rs. 5,000/- to her for three months or till the disposal of



maintenance application, preferred by opposite party no. 2, beginning from February, 2018, whichever is earlier, failing which the O.P. no. 2 will have the liberty to approach this Court for the needful.

With the aforesaid observations/directions, the present petition is disposed off.

(Ashutosh Kumar, J.)

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