

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51225 of 2017

Arising Out of PS. Case No.- Year- Thana- District- Bhojpur

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Ritesh Pandey @ Ritesh Kumar Pandey, S/o Ajay Kumar Pandey, Resident of House No. N 10/47 B-1B Lakhrawn, Kakarmatta, Bhelupur, District Varanasi (U.P.).

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary

For the Opposite Party/s : Mr. SRI RAJKISHORE SINGH

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 24-01-2018 Heard learned counsels for the parties.

The present application has been filed for modification of order dated 13.3.2015 passed in Cr. Misc. No. 42156 of 2014 to the extent that the petitioner may be exonerated from the liability of making payment of Rupees One Thousand Five Hundred, which was undertaken to be paid by the petitioner at the time of consideration of anticipatory bail.

The factual matrix of the case is that the petitioner being the husband of the informant preferred Cr. Misc. No. 42156 of 2014 with a prayer for anticipatory bail in a case registered for the offences punishable under sections 341,323 and 498A/34 of the IPC and Sections 3 and 4 of Dowry Prohibition Act. The petitioner was granted anticipatory bail on the submission that the petitioner is ready to make payment of Rs.1500/- per month



from April, 2015 to the informant by depositing the same in her bank account by second week of every succeeding month and the offer being accepted by the learned counsel for the informant on instruction. However, the aforesaid payment was subject to any order passed in matrimonial or maintenance proceedings or the order being passed in the case filed under Protection of Women from Domestic Violence Act. Three consecutive defaults in making payment would give liberty to the informant to file application for cancellation of bail of the petitioner.

It is submitted by learned counsel for the petitioner that vide order dated 31.5.2016 passed in Misc. Case No. 137 of 2014, the learned Principal Judge, Family Court, Bhojpur directed the petitioner to make payment of interim maintenance of Rupees Five Thousand per month along with Rs.15000/- lumpsum amount as litigation cost to the informant O.P. No. 2 from the date of the order. While considering the issue of grant of interim maintenance, the learned court below also considered the order dated 13.3.2015 of this Court passed in Cr. Misc. No. 42156 of 2014. Relevant portion of the order dated 31.5.2016 reads as follows:

“Though admitted her as legally wedded wife the opposite party is ready to keep her and



intentionally the petitioner does not live with this opposite party. Also ready to pay maintenance vide order dated 13.3.2015 by the Hon'ble High Court Patna in Cr. Misc. No. 42156/14 for depositing maintenance in TR. No. 6242/15 pending in the court of S.D.J.M., Ara but she could not give the account hence the maintenance was not deposited. The opposite party denied the salary 60000/- rather he is getting only 30000/- as salary from private company situated at Delhi. It is also submitted on his behalf that the petitioner is a teacher in Bihia School and she earns good salary in school. She is able to maintain her. He is not harassing the petitioner. So her petition for maintenance be rejected.

Heard both sides perused the record. The present maintenance case has been filed by the petitioner wife against her husband opposite party for granting of maintenance allowance alongwith litigation cost.

Considering the rival submissions of the parties, it is desirable and essential to grant of Rs.5000/- per month as interim maintenance alongwith Rs.15000/- litigation cost lumpsum to the petitioner. Therefore, the opposite party is directed to pay the aforesaid amount from the date of order. As such the petition for interim maintenance is hereby disposed off. Put up on 12.7.2016.”



A specific statement has been made by learned counsel for the petitioner that the petitioner has regularly been making payment of Rs.1500/- per month as incorporated in undertaking in order dated 13.3.2015 passed in Cr. Misc. No. 42156 of 2014. Statements to that effect have been made in paragraph nos. 3 and 4 of the petition which read as follows:

“3. That it is stated that thereafter learned Principal Judge, Family Court, Bhojpur at Ara in Misc. Case no. 137 of 2014 filed for grant of interim maintenance in favour of Opposite Party (wife) to the tune of Rs.5,000/- along with Rs.15,000/- as litigation cost lump-sum vide order dated 31/5/2016.

4. That it is stated that the petitioner was paying the amount of Rs.1500/- regularly in favour of informant. Furthermore, the Hon'ble court while directing to pay the amount Rs.1500/- per month in the order dated 13/3/2015 has specifically mentioned that the aforesaid payment will be subject to any order passed in matrimonial or maintenance proceeding or the order being passed in the case filed under Protection of Women from Domestic Violence Act.”

It is, therefore, submitted by learned counsel for the petitioner that there is no default in making payment of undertaken amount nor any application for cancellation of bail



bonds of the petitioner has been filed by the O.P. No. 2.

However, learned counsel for the O.P. No. 2 submits that he has no definite instruction with regard to the payment of up-to-date maintenance amount.

Keeping in view of the fact that the order dated 13.3.2015 passed in Cr. Misc. No. 42156 of 2014 was subject to any order passed in matrimonial or maintenance proceedings or the order being passed in the case filed under Protection of Women from Domestic Violence Act and in the matrimonial proceeding, i.e. Misc. Case No. 137 of 2014, maintenance amount has been fixed as stated above, the order dated 13.3.2015 passed in Cr. Misc. No. 42156 of 2014 is modified to the extent that the petitioner is supposed to make payment of undertaken amount of Rs.1500/- per month till 30.5.2016.

This application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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