

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34933 of 2016

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Krishan Behari Pandey Son of Shashi Bhushan Pandey resident of Village-
Ojhawaliya, P.S. Brahmpur, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. Khushbu Pandey @ Gudiya D/o Shri vishwanath Pandey, and wife of Krishan Behari Pandey resident of Village & P.O. Ga-yghat (Bhinik Pandey Ke Tola), P.S. Brahmpur, District- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Shankar Pathak, Advocate.

For the Opposite Party/s : Smt. Anita Kumari Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 05-07-2018

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

2. This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner seeking quashing of the order dated 03.05.2016 passed by the Principal Judge, Family Court, Buxar in Maintenance Case No. 128 of 2014 whereby the petitioner has been directed to pay a sum of Rs. 2500/- per month to the opposite party no. 2 by way of ad interim maintenance and also Rs. 4,000/- as one time cost of litigation.

3. The petitioner has not disputed the marriage with the opposite party no. 2. The case of the petitioner is that he is willing to keep his wife and for the said purpose he has also filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal life, but his wife is adamant not to reside with him and, thus, she is



not entitled to any maintenance.

4. On perusal of the record, I find that the opposite party no.2 has alleged that for non-fulfillment of demand of dowry the petitioner subjected her to physical and mental cruelty and for that reason she has also filed a criminal case vide Brahmpur P.S. Case No. 326 of 2014 in which cognizance has already been taken for the offences punishable under Section 498-A of the Indian Penal Code and Section 3 & 4 of the Dowry Prohibition Act.

5. The only ground taken by the petitioner that the opposite party no.2 is not willing to live with him and, thus, she is not entitled to claim maintenance allowance is apparently without any merit. The petitioner cannot claim a right to subject his wife to physical and mental cruelty and compel her to live with him.

6. Furthermore, the amount of ad interim maintenance is neither excessive nor unreasonable. I further find that the court below has given adequate reasons in its order for allowing the ad interim maintenance.

5. In that view of the matter, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

AFR/NAFR	NAFR
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