

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25999 of 2016

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

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Pankaj Kumar Ranjan @ Pankaj Ranjan son of Ram Narayan Sah, resident of village - Mahanth Tola Amari Kukran, Police Station - Dhamdaha, District - Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Arpana Kumari @ Rakhi Kumari wife of Pankaj Kumar Ranjan resident of village - Mahanth Tola Amari Kukran, Police Station - Dhamdaha, District – Purnea. At present daughter of Tarni Prasad Sah, resident of village - New Market, Katihar, Police Station - Katihar, District - Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anju Mishra, Advocate
: Mr. Shavnandan Sah, Advocate
For the State : Mr. Amir Kumar Rakesh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 15-01-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing the order dated 05.05.2016 passed in Maintenance Case No.66 of 2015 by the learned Additional Principal Judge, Katihar by which he has directed the petitioner to pay rupees five thousand per month as interim maintenance allowance to the opposite party no.2.

2. It is submitted by the learned counsel for the petitioner that the petitioner is ready to keep his wife with dignity and honour. He filed a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal right, but the opposite party no.2 is not



willing to live with the petitioner. She further submitted that the award of rupees five thousand per month as interim maintenance allowance to opposite party no.2 is not based on rational basis. She submitted that interim award is patently bad for the reason that the petitioner does not have sufficient means to pay the amount.

3. On the other hand, learned counsel for the State submitted that there is no merit in this application. He submitted that it would be manifest from the record that the opposite party no.2 is a student and she is not able to maintain herself. It would further be manifest that the petitioner being husband of the opposite party no.2 having sufficient means has failed to discharge his duty in maintaining the opposite party no.2 and even on request he has refused to take her back to her matrimonial home.

4. I have heard learned counsel for the parties and perused the record.

5. The marriage between the parties is not denied. In the petition filed before the Court of Principal Judge, Family Court, Katihar the opposite party no.2 has claimed that she was married to the petitioner on 9th July, 2008 and at the time of marriage her parents had given ornaments gold, silver and diamond costing about rupees six lacs as gift and had also given rupees two lacs for the house-hold living materials. However, after marriage when she conceived the



attitude of family members had changed. They started subjecting her to cruelty on the name of dowry and called her ***“Bihkharin Ki Beti Bhikharin, Kahi Dusri Jagah Sadi Karte To Is Se Jayada Milta”***. Subsequently she came to her father’s house along with her parents on 29th May, 2009 and gave birth to a child and as the petitioner had fallen in bad company and had beaten her brutally along with his associates, she was compelled to file a police case, vide Mahila P.S. Case No.51 of 2014. She claimed that she is living in her parents’ home and as her father is a retired army personnel, he does not have sufficient means to maintain her. The petitioner is employed in a private firm and is earning rupees fifty thousand per month and besides his own income from salary he is also having landed property from which he earns rupees five lacs per annum.

6. Having considered the pleadings made in the application filed under Section 125 of the Cr.P.C. and having heard the parties, vide order dated 05.05.2016, the court below allowed the prayer made by the opposite party in her application dated 17.02.2016 for interim maintenance. The court while passing the interim order has taken into consideration inability of opposite party no.2 to maintain herself and the financial condition of the petitioner, who prima facie having sufficient means has neglected and abandoned his wife.

7. In the opinion of this Court, in the background of the



facts noted above, it cannot be said that the order passed by the learned court below in awarding interim maintenance to the petitioner is bad on merits. No other illegality or irregularity in the impugned order could be pointed out by the learned counsel appearing for the petitioner. Moreover, the order under challenge is an interlocutory in nature and has been passed on correct appreciation on facts and law.

8. In that view of the matter, I do not see any reason to interfere with the impugned order. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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