

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.153 of 2016

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

Amarnath Das Son of Vishwa Nath Das, resident of Village Fatepur
Phulwaria, Police Station Sarai in the District of Vaishali.

... .. Petitioner/s

Versus

Anita Devi, Daughter of Jai Mangal Das, resident of Village Jagar Nathpur,
Police Station Kurhani in the District of Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 16-08-2018 Heard learned counsel for the parties.

The petitioner/husband is aggrieved by the final *ex-parte* order dated 15.06.2013 passed by the learned Principal Judge, Family Court, Muzaffarpur whereby the petitioner has been directed to pay an amount of Rs. 10,000/- per month to the opposite party for her as well as her daughter's maintenance.

Learned counsel for the petitioner has submitted that the prayer of opposite party/wife before the family court was to award her Rs. 4000/- per month which would be sufficient for the maintenance of two daughters and herself but the family court, without assigning any reason, has directed for payment of Rs. 10,000/- per month and that also after accepting the statement of the opposite party/wife that the income of



the petitioner is around Rs. 12,000/- per month. The order, on face of it, depicts non application of mind.

Mr. Sanjay Kumar, learned advocate for the opposite party has submitted that during inquiry, the learned court below was made known that out of the two daughters born out of the wedlock of the petitioner with the opposite party, one has been suffering from Kidney trouble for a long time and huge amount has uptill now been spent for her treatment. Perhaps, the family court has considered this aspect of the matter in awarding the maintenance to the tune of Rs. 10,000/- per month but this is only the presumption of the learned counsel for the petitioner appearing for the opposite party.

This Court has taken note of the fact that the order is *ex-parte* and the prayer made by the opposite party before the learned Principal Judge, Family Court, Muzaffarpur was only for maintenance amount of Rs. 4000/-.

The order impugned is therefore set aside.

The matter is remitted to the learned Principal Judge, Family Court, Muzaffarpur for giving a fresh consideration over the matter.

The parties shall be heard and opportunity shall be given to them for adducing evidence in respect of their contention.



In the meantime, the petitioner shall pay an amount of Rs. 4000/- per month to the opposite party for her maintenance as an interim measure. The maintenance amount shall be paid from the month of January 2018.

The family court shall ensure that regular payment of Rs. 4000/- is being made by the petitioner before hearing the case on merits.

The court below shall conclude the proceedings as expeditiously as possible preferably within a period of three months of the production/receipt of a copy of this order.

With the aforesaid direction, this petition is disposed of.

(Ashutosh Kumar, J)

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