

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6554 of 2016

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1. Ganesh Sahani @ Ganesh Sahni, Son of Late Shiv Charan Sahani,
 Resident of Village - Semra Chak Shrikanth, P.O. - Shrikant, Police
 Station - Piar, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Geeta Devi, Wife of Shri Ganesh Sahani, Daughter of Late Dhanai
 Sahani, resident of Village - Semra Chak Shrikanth, P.O. - Shrikant, Police
 Station - Piar, District - Muzaffarpur, a t present residing in village Salha,
 Police Station - Bochahan, District - Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra-Advocate

For the Opposite Party/s : Mr. S. Ehteshmuddin-A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 05-10-2018

Heard learned counsel for the petitioner as well as
 learned Additional Public Prosecutor.

At an earlier occasion, petitioner/ husband was
 directed to pay ad interim maintenance of Rs.5,000/- to his wife
 O.P. No.2/ applicant. Subsequently thereof, a prayer has been
 made in terms of Section 127 of the Cr.P.C., whereupon order
 impugned has been passed modifying the earlier order reducing
 the quantum of ad interim maintenance Rs.5,000/- to Rs.2500/-,
 which also been polemical at the end of petitioner/ husband. On
 account thereof, by way of filing of instant petition, petitioner has
 prayed for setting aside the order dated 19.12.2015 passed by the
 Principal Judge, Family Court, Muzaffarpur in Maintenance Case



No.172 of 2010, on the ground that petitioner happens to be retired person having no source of income, as a result of which, is unable to pay.

Also submitted that petitioner in his show-cause (Annexure-6) had stated that the applicant/ wife got herself remarried after deserting him about 30 years ago.

On the other side, learned Additional Public Prosecutor opposed the prayer and submitted that the allegation whatever been attributed at the end of the petitioner in his show-cause will not be matter of consideration for the present, as it is yet to be substantiated by cogent, reliable evidence.

It happens to be a settled principle of law that husband has to maintain his wife according to his status. There happens to be no disclosure at the end of the petitioner in his show-cause whether he has got other source of income including landed property or not. It has simply been asserted that he is retired Sanskrit Teacher, having non-availability of pension scheme, has got no bearing as, there happens to be no discloser whether he had taken divorce from her. In the aforesaid background, unless and until, there happens to be proper evidence over theme of adultery, followed by clear cut finding of the Court, petitioner is bound to maintain his wife, whereupon, the order



impugned did not attract interference.

In the aforesaid facts and circumstances of the case, the order needs no interference, whereupon instant petition lacks merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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