

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.753 of 2015

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

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Asharfi Prasad Mahto Son of Late Nathuni Mahto Resident of Village -
Nabiganj Bazar, P.S. - Basantpur, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kanti Devi wife of Asharfi Prasad Mahto C/o Late Raju Pandit, Resident of
Mohalla - Bichala Tola, Kumhrar, P.S. - Agamkuan, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Rajpati

For the Respondent/s : Mr. Madhuranand Jha(App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

9 18-08-2018 The petitioner/husband has questioned the order dated 29.01.2015 passed by the learned Additional District and Sessions Judge-IV, Patna in Cr. Appeal No. 96 of 2012 whereby the challenge to the order passed by the court below directing the petitioner to pay 50% of his pension amount to the opposite party no. 2 in a proceeding under the Protection of Women from Domestic Violence Act, 2005 as an interim measure till the disposal of the case, has been rejected.

The petitioner is a retired High School Headmaster and gets a pension around Rs. 34,000/- per month. In a proceeding instituted by the opposite party no. 2 under Section 125 Cr.P.C., the petitioner is paying an amount of Rs. 2500/- per month towards her maintenance.

The petitioner has raised an issue that the court



below wrongly passed an *ex-parte* order without the requisite satisfaction of continuance of Domestic Violence as mandated under Section 23(2) of the Protection of Women from Domestic Violence Act, 2005.

The court below has directed that 50% of the pension amount shall be inclusive of Rs. 2500/- which the petitioner has been paying to the opposite party no. 2.

This Court, on 26.06.2018 was of the view that such interim order under the Domestic Violence Act was excessive and that a total amount of Rs. 10,000/- be paid to the opposite party no. 2 which would be inclusive of Rs. 2500/- which is being paid in a proceeding under Section 125 Cr.P.C. by the petitioner.

I have heard the parties. Though the learned counsel appearing for the opposite party no. 2 has sought to defend the aforesaid interim order passed by the court below on the ground that the opposite party is living in a rented accommodation and is required to undergo extensive and continued treatment for her spine injury, this Court is of the view that only such quantum of money under the aforesaid act can only be directed which would be in tune with the financial health of the husband. Taking into account that the petitioner also is a retired person and is suffering from several ailments this Court had asked the learned advocate appearing for the



petitioner to seek instructions from the petitioner whether he is agreeable to pay Rs. 10,000/- per month as an interim measure to the opposite party no. 2. The petitioner has agreed for the same but has prayed for fixing an installment for making payment of Rs. 75,000/- towards the arrears of the payment.

Taking a holistic view of the matter, this Court directs that the petitioner will continue to pay Rs. 10,000/- to the opposite party no. 2 by the same mode in which payment was being made earlier and shall also make payments of Rs. 75,000/- within a period of three months from today. The court below shall ensure that the aforesaid direction has been complied by the petitioner in letter and spirit and shall also conclude the proceedings as early as possible.

With the aforesaid observation, the present revision petition is disposed off.

Needless to state that the present order will not cause prejudice to the case of either of the parties before the court below.

(Ashutosh Kumar, J)

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