

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.202 of 2017

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Ishaque Ahmad @ Ishaque Mian, Son of Subhan Ahmad,
Resident of Village- Baidapur Bishunpura, Police Station-
Daraunda, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kirti Nisha, Wife of Ishaque Ahmad, Daughter of Aklu Ahmad, Resident of Village- Baidapur Bishunpura, Police Station- Daraunda, District- Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :Mr. Binay Kumar, Adv.

For the O.P. No. 2 :Mr. Akhileshwar Kr. Shrivastava, Adv.

For the State :Ms. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

7 30-07-2018 Heard the learned counsel for the petitioner,
opposite party No. 2 and the State.

The petitioner has challenged the final *ex-parte* order dated 29.11.2016, passed by the learned Principal Judge, Family Court, Siwan in Maintenance Case No. 179 of 2007, whereby he has been directed to pay an amount of Rs. 3,000/- per month to the opposite party No. 2 towards her maintenance.



The aforesaid final order reflects that the opposite party No. 2 was married to the petitioner and from the wedlock three children were born. For some time, the petitioner took good care of his wife and children, but later on, refused to provide any maintenance to them. A case was also lodged by the opposite party No. 2 against the petitioner under Section 498-A and 323 of the Indian Penal Code. The petitioner deliberately did not appear before the court below and, therefore, there was no way-out, but for the court below to pass an *ex-parte* order.

Even in the absence of the petitioner, it has been submitted on behalf of the opposite party No. 2, a bare minimum maintenance amount has been fixed by the Family Court which need not be interfered with.

Mr. Manoj Kumar, learned Advocate appearing for the petitioner has submitted that the opposite party No. 2 is not his legally wedded wife and only for the purposes of taking maintenance from her, the present case has been lodged.

Such submission is not worth accepting for the simple reason that the case with respect to the offences under Sections 498-A and 323 of the Indian Penal Code is still pending investigation. Such plea has not been taken by the petitioner in any proceeding whatsoever. The evidence



offered on behalf of the opposite party No. 2 fully establishes that the opposite party No. 2 was married to the petitioner and out of the marriage, three children were born.

Be that as it may, since that was not the issue before the Family Court, may be because of the absence of the petitioner from the proceedings, this is not the forum where the aforesaid ground could be agitated.

During the course of argument, learned counsel for the petitioner furnished his nominal roll which is maintained in the official course of business. The aforesaid nominal roll refers to several dependents on the petitioner.

However, taking into account that the opposite party No. 2 and her children are also required to be maintained and that admittedly the petitioner is in the service of C.R.P.F. and is under an obligation to maintain his wife and children, this Court does not intend to interfere with the impugned final order.

It was also submitted on behalf of the petitioner that he is ready for a one time settlement. This offer of the petitioner has been rejected by the learned counsel appearing for the opposite party No. 2, on the ground that this is only a strategy of the petitioner to avoid making payment of any maintenance amount. The petitioner, it has been argued on behalf of the opposite party No. 2, has not



been paying the monthly maintenance amount despite such order having been passed a long time back.

The petitioner had earlier approached this Court against the distress warrant, which was issued against him for not making payments towards maintenance as directed by the Family Court, but the aforesaid application also was dismissed.

There is no merit in this application and it is, accordingly, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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