

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.867 of 2018

Anoop Kumar Son of Ajay Kumar Sharma, Permanent resident of village/P.O.- Shankardih P.S.- Parbalpur, Dist.- Nalanda.

... .. Petitioner

Versus

Kumari Chunchun Wife of Anoop Kumar, Daughter of Dinesh Kumar Singh, Resident of Mohalla- Vishnu Vihar, Near Jagjivan College, P.S.- Moffassil, Dist.- Gaya, Permanent resident of Village- Dadpur, P.S.- Belaganj, Dist.- Gaya.

... .. Respondent

Appearance :

For the Appellant/s : Mr.Sanjay Kumar Ghosarvey

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 13-09-2019

Heard learned counsel for the parties.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner challenging the order dated 12.03.2018 passed by the learned Principal Judge, Family Court, Gaya in Misc. Case No. 134 of 2016 whereby the petition dated 18.02.2017 filed by the respondent for payment of interim maintenance has been allowed and the petitioner has been directed to pay a sum of Rs.8,000/- per month to the respondent from the date of the order.

3. Learned counsel for the petitioner submitted that since the salary of the petitioner is hardly Rs.14,000/- per month, there was no occasion for the court below to have awarded



interim maintenance to the respondent as the respondent herself has deserted the petitioner and has subjected him to cruelty as a result of which he has filed matrimonial (divorce) case. He has further submitted that the respondent is suffering from mental disorder and is undergoing treatment by a Neuro Physician, which fact was never disclosed to the petitioner.

4. The facts, in brief, are that the respondent had filed Misc. Case No. 134 of 2016 before the learned Principal Judge, Family Court, Gaya under Section 125 of the Code of Criminal Procedure for ad interim maintenance. In the petition the respondent had stated that she was married to the petitioner on 05.06.2015 according to Hindu ritual, custom and tradition at Gaya. Her parents had given a sum of Rs. 9 lakhs in HDFC bank accounts to the parents of the petitioner for expenses in the marriage. Further, for purchase of a car, Rs. 7 lakhs and a sum of Rs. 5 lakhs in cash were given in order to purchase gold and silver ornaments. Apart from the aforesaid payments, Rs.2,50,000/- was spent over purchase of T.V., Washing Machine, Refrigerator, Almirah, golden chain, golden rings etc., which were given to the petitioner. She has further stated that subsequently the petitioner started demanding Rs.15 lakhs for going abroad and, on protest, she was subjected to assault and



torture in various ways. She has stated that the petitioner is an Aeronautical Engineer and is posted at Surat in Gujarat and is being paid Rs.1 lakh per month as his salary. Apart from salary, he also own flats in Patna, Dhanbad, Ranchi and Bangalore. He has also landed property in village Shankardih. His monthly income from sources other than salary is about Rs.1,50,000/-.

5. Upon being noticed, the petitioner filed his show cause. In his show cause, he has not denied most of the statements made in the application filed under Section 125 of the Cr.P.C. The denials are (1) that there is no truth behind the allegation of demand of dowry and the criminal prosecution launched by the respondent is as a matter of fact counter blast to the matrimonial (divorce) case filed by the petitioner and (2) that the petitioner draws a monthly salary to the tune of Rs.12,141/- only from his employer Indumer Aviation Private Limited. Though the respondent has stated in her application that she has no independent source of income, the said statement has not been denied by the petitioner in his show cause. There is also no denial of the petitioner's income from other sources as alleged in the application filed by the respondent.

6. Having regard to the pleadings of the parties, if the court below has allowed the application filed by the respondent



and directed the petitioner to pay Rs.8,000/- per month to the respondent as an interim maintenance, no fault can be found with the same. The order impugned neither suffers from want of jurisdiction nor from perversity.

7. In that view of the matter, I am not inclined to interfere with the order impugned in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

8. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18-09-2019
Transmission Date	

