

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.9 of 2016

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Shree Krishna Sah son of Late Mukhan Sah, Resident of village- Ruian, Post Office- Darouli, Police Station- Bhabua, District- Kaimur Bhabua.

... .. Petitioner

Versus

1. State Of Bihar
2. Suaina Devi, wife of Shree Krishna Sah, resident of Village- Ruian, Post Office- Darouli, Police Station- Bhabua, District- Kaimur Bhabua. At present residing at village Post Office- Dadar, Police Station- Mohania, District- Kaimur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Pathak, Adv.

For the Respondent/s : Smt. Anita Kumari App

For the Informant : Mr. Rajni Kant Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 04-02-2019 This application is directed against the order dated 19.09.2015 passed by learned Sessions Judge, Kaimur at Bhabhua in Cr. Appeal No. 374 of 2014, by which, the order passed by the learned Judicial Magistrate, 1st Class, Bhabhua dated 06.11.2014 in Complaint Case No. 681 of 2014 has been affirmed, whereby, the learned Judicial Magistrate has passed the order of interim maintenance directing the petitioner to pay Rs. 5,000/- to opposite party no. 2, till the final disposal of the case.

Prosecution case in short is that opposite party no. 2 Sunaina Devi has filed the complaint before the learned Chief Judicial Magistrate under Section 12 of Protection of Women from Domestic Violence Act, 2005 on 12.06.2014, stating



therein inter alia that she was married with the petitioner and she has two daughters. The petitioner has solemnized second marriage with one Leela Devi and, thereafter, he started torturing opposite party no. 2 and on 11.06.2011, she was ousted from the house and her belongings amounting to Rs. One lac were also snatched away by the petitioner. It is also stated that the petitioner is retired Government employee and he gets pension of Rs. 10,625/-. Besides that he also has 10 acres of agricultural land in village Ruiyan.

It further appears that the petitioner has appeared by filing Vakalatnama in the court of learned Judicial Magistrate, 1st Class, Bhabhua and intended to submit his objection in writing against the complaint case but he could not appear on call and as such, the impugned order has been passed by the learned Judicial Magistrate.

Thereafter, the petitioner moved before the Court of learned Sessions Judge, Kaimur at Bhabhua by filing Criminal Appeal No. 374/2014 against the order of interim maintenance passed by the learned Judicial Magistrate - 1st Class, Kaimur (Bhabhua) in Complaint Case No. 681/2014 but the same was also dismissed vide order dated 19.09.2015 and the order of interim maintenance passed by the learned Judicial Magistrate



-1st Class, Kaimur at Bhabhua was affirmed.

Being aggrieved, the petitioner has filed the instant revision application on the ground that the order of interim maintenance has been passed by learned Judicial Magistrate - 1st Class, Kaimur at Bhabhua in his back and even though the learned Judicial Magistrate - 1st Class, Kaimur at Bhabhua has found the monthly income of petitioner Rs. 10,625/-, he has directed the petitioner to pay Rs. 5,000/- to opposite party no. 2 as interim maintenance till final disposal of the case, which is excessive one.

Learned counsel, appearing on behalf of opposite party no. 2 has countered the submission of learned counsel for the petitioner and submitted that opposite party no. 2 has no knowledge of the actual pension, which is being drawn by the petitioner and as such, she could not brought the papers on record before the learned Judicial Magistrate -1st Class, Kaimur, Bhabhua and as per her present knowledge, the petitioner is drawing Rs. 25,000/- as monthly property besides that he also has landed properties and the amount of Rs. 5,000/- as interim maintenance ordered by learned Judicial Magistrate -1st Class, Kaimur at Bhabhua and the same affirmed by learned Sessions Judge, Kaimur at Bhabhua is reasonable.



It further appears that a Coordinate Bench of this court vide order dated 09.03.2018 has issued notice to the opposite party no. 2 and directed the petitioner to pay interim maintenance of Rs. 2,000/- per month to opposite party no. 2 till final disposal of this case.

Having heard both sides and after considering the submission of the parties, this revision application is disposed of with direction to the petitioner to move before the learned Judicial Magistrate -1st Class, Kaimur (Bhabhua), in Complaint Case No. 681 of 2014 and both the parties will be at liberty to produce the papers in support of their contention and the learned Judicial Magistrate -1st Class, Kaimur (Bhabhua) after hearing both sides, shall pass an appropriate order afresh, directing the petitioner to pay the amount, which shall be applicable from 06.11.2014 i.e. from the date of earlier order passed by him in Complaint Case No. 681 of 2014, till then, the petitioner is directed to pay Rs. 2,000/- per moth to opposite party no. 2 as interim maintenance.

(Vinod Kumar Sinha, J)

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