

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS NO. 24649 of 2019

In
CRIMINAL MISCELLANEOUS NO. 7011 of 2014
 Arising out of PS. Case No.-60 Year -2013 Thana –Mahila P.S. Bagaha
 District- West Champaran

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Wakil Mian @ Shamim Ansari, son of Idrish Ansari @ Idrish Mian, resident of village -
 Gandhi Nagar, Ward No. 17, Bagaha, P.S. – Bagaha, District – West Champaran.

.....Petitioner

Versus

1. The State of Bihar
2. Amrun Nesha alias Amarun Khatoon, wife of Wakil Mian @ Shamim Ansari, D/o
 Sakarulah Ansari, resident of village - Gandhi Nagar, Ward No. 17, Bagaha, P.S. –
 Bagaha, District – West Champaran.

.....Opposite Parties

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Appearance:

For the Petitioner/s	:	Mr. Ravi Shankar Sahay, Adv.
For the Opposite Party/s	:	Mr. Dasrath Manjhi, APP
For O.P. No. 2	:	Mr. Prithvinath Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

07. 18.08.2020.

Heard Mr. Ravishankar Sahay for the petitioner and Mr.
 Prithvinath Mishra, learned counsel for opposite party no. 2. The State is
 represented by learned APP.



This application has been filed for modification of the order dated 13.05.2015 passed by a Bench of this Court in Criminal Miscellaneous No. 7011/2014, whereby the provisional anticipatory bail of the petitioner was confirmed with a direction that the petitioner shall pay an amount of Rs. 1500/- per month to the opposite party no. 2 in connection with Bagaha Mahila P.S. Case No. 60 of 2013.

It appears from the records that initially the petitioner was asked to pay Rs. 750/- per month to the opposite party no. 2 for her maintenance but later, the amount was enhanced to Rs. 1500/- per month. The opposite party no. 2 had also preferred a maintenance petition before the competent court of law which has passed an order directing the petitioner to make payment of Rs. 2000/- to opposite party no. 2 and Rs. 1000/- to the child born out of the wedlock.

Under these circumstances, learned counsel for the petitioner seeks modification of the order passed by a Bench of this court in anticipatory bail petition, whereby, the requirement of making payment of Rs. 1500/- per month was merged with the order of the Family Court or the responsibly to pay such amount was set at rest.



Learned counsel appearing on behalf of opposite party no. 2, however, has submitted that the Court granting maintenance has taken into account the fact that the petitioner was directed to pay an amount of Rs. 1500/- per month to opposite party no. 2 towards her maintenance. Therefore, the quantum of maintenance directed by the competent court was over and in addition to the amount of Rs. 1500/- which the petitioner was required to pay under the orders of this Court.

This is a wrong proposition and an absolutely incorrect interpretation of the provisions of the law in that regard. Any order which is passed in a bail petition is interlocutory / temporary and is subject to the final order passed by the competent court dealing with the application for maintenance. The last paragraph of the order passed by the competent court is only to the effect that the order would be given effect to immediately as the petitioner had been making payment of Rs. 1500/- per month from before which order was passed by the High Court. This does not at all mean that the order of payment by the competent court is over and above the amount of maintenance, which the petitioner was paying under the orders of this Court.



For the aforesaid reason, this Court is inclined to modify the order dated 13.05.2015 passed by this Court in as much as that now the petitioner would not be required to pay Rs. 1500/- per month to opposite party no. 2 by virtue of the aforesaid order. This modification has been necessitated as explained earlier because of the passing of the final order in the maintenance petition directing the petitioner to pay a total amount of Rs. 3000/- to opposite party no. 2 and her child for their maintenance.

The order dated 13.05.2015 passed by in Criminal Miscellaneous stands modified to the extend indicated above.

The application stands allowed.

(Ashutosh Kumar, J)

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