

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.12 of 2020**

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Vikram Kumar Son of Rajendra Ram, Resident of Mohalla- Bangla
Ashthan, P.O. R.S. Gaya, P.S. Kotwali, District- Gaya.

... .. Petitioner/s

Versus

Neha Kumari W/o Vikram Kumar, D/o late Vinod Kumar, Resident of Loco
Colony, P.S. Delha, District- Gaya, At Presently Residing at Mohalla- Gewal
Bigha, P.S. Rampur, District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Sinha

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 28-01-2020

The present application has been filed “*for setting aside
the order dated 27.09.2019 passed by Principal Judge, Family Court,
Gaya in Misc. Case No. 67 of 2017.*”

2. Learned counsel for the petitioner submits that the
learned Court below has erred in allowing interim maintenance of
Rs. 2,500/- to the respondent under Section 125 Cr. P.C. without
appreciating that such maintenance was not payable in view of the
provisions of Section 125(4) Cr. P.C. It is submitted that the
respondent was refusing to live with her husband without sufficient
reason and had gone to her *Naihar*, by reason of which the
petitioner filed a petition for restitution of conjugal rights in
Matrimonial Case No. 170 of 2015 in the Court of learned Principal



Judge, Family Court, Gaya. In such circumstances, therefore, no interim maintenance was payable to the respondent.

3. Having heard learned counsel for the petitioner and on consideration of the materials on record, this Court is not inclined to interfere in the matter. It appears from the respondent's deposition recorded on 11.08.2017 (Annexure-2) that she had alleged mental and physical torture by the petitioner and his family members who demanded dowry only 2-3 days after marriage and thereafter for non-fulfillment of the demand, she was ousted from the matrimonial home.

4. In the above view of the matter, it would be premature to take a view that the respondent had, without any sufficient reason, refused to live with her husband for the purposes of Section 125(4) Cr. P.C. This Court finds no illegality, infirmity or error of jurisdiction in the order of the learned Court below. The petition stands dismissed.

(Vikash Jain, J)

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AFR/NAFR	NAFR
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