

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.718 of 2022**

**In
CRIMINAL REVISION No.1246 of 2018**

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Md. Jahagir @ Shekh Jahangir Son of Sakat Ali @ Sokat Ali Resident of
Village- Mangalwara, Rahmat Ganj, Police Station- Shri Nagar, District-
Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sabana Khatoon, (So Called Wife) Wife of Md. Jahagir @ Shekh Jahangir
Resident of Village- Mangalwara, Rahamat Ganj, Police Station- Shri Nagar,
District- Madhepura.
3. Ladla, (Minor) Son of Md. Jahagir @ Shekh Jahangir Son of Sabana
Khatoon, under the guardianship of Opposite Party No.- 2, Resident of
Village- Mangalwara, Rahamat Ganj, Police Station- Shri Nagar, District-
Madhepura.
4. Pyara Alam, (Minor), Son of Md. Jahagir @ Shekh Jahangir Son of Sabana
Khatoon, under the guardianship of Opposite Party No.- 2, Resident of
Village- Mangalwara, Rahamat Ganj, Police Station- Shri Nagar, District-
Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

2 24-11-2022 The petitioner is the husband of the respondent no. 2
and father of respondent nos. 3 and 4. He is aggrieved by the
order, dated 31.07.2018, passed in Maintenance Case No. 145 of
2014, filed by the respondent-wife, under Section 125 of the
Code of Criminal Procedure, 1973, whereby the learned
Principal Judge, Family Court, Madhepura, has awarded a sum
of Rs. 1,500/- per month, as an interim maintenance for meeting
the expenses of the respondent-wife as well as the children and
also the expenses of litigation.



Maintenance Case No. 145 of 2014 was filed by the respondent no. 2, *inter alia*, on the fact that she is the wife of the petitioner and out of the wedlock, two children were born. She has been compelled to live separately by the petitioner along with her children. She does not have any independent income of herself and is not in a position to maintain herself and her children. She has been living a miserable life and is at the verge of penury. The petitioner is a wealthy and rich person having sufficient income from various sources. Accordingly, the respondent-wife prayed for interim maintenance on 28.07.2016.

Learned Counsel for the petitioner submits that the petitioner is a poor person and has been working as a labourer and is ready to keep his wife (respondent no. 2) with full honour and dignity. It has also been submitted that respondent no. 2 is not only his wife; rather, prior to the marriage with the petitioner, she had also married with two other persons and has been living an adulterous life.

I have heard learned Counsel for the petitioner and have gone through the materials available on record, including the impugned order.

Maintenance Case No. 145 of 2014 progressed and two witnesses were examined by the respondent-wife. After



admission of the case, notices were issued to the petitioner-husband for his appearance in the maintenance case, but despite valid service of notice upon him, he did not appear and the case was fixed for ex-parte hearing against the petitioner-husband. On 26.05.2015, the petitioner appeared and filed a petition for recall of the order of ex-parte hearing. Again, he became absent for sometime and after lapse of a long period of time, he appeared and moved a petition for recall of the ex-parte hearing, which was allowed by the learned Family Court, vide order, dated 19.04.2016 on the cost of Rs. 200/- and the case was fixed for reconciliation.

The petitioner again remained absent due to which reconciliation could not succeed and the petitioner was directed to file written statement. He remained absent this time also and left pairvi in the case.

Due to the lackadaisical approach of the petitioner, the learned Family Court debarred him from filing written statement, vide order, dated 08.05.2017. A petition for recall of the order debarring him from filing written statement/show cause was filed and the same was allowed vide order, dated 17.10.2017 on the cost of Rs. 500/- and the written statement was taken on the record. Subsequently, the petitioner filed a



petition seeking permission to cross-examine the witnesses produced on behalf of respondent-wife and in the ends of justice, the same was allowed subject to payment of cost of Rs. 1,000/-.

The petitioner, at least, has admitted this fact that he has been working as labourer and is earning through physical labour.

Fro the aforesaid facts, it appears that the petitioner deliberately tried to delay the disposal of the maintenance case, which compelled the respondent-wife to file a petition for interim maintenance on 28.07.2016 and after taking into consideration the rival submissions, the learned Family Court has awarded a meager amount of Rs. 1500/-, as maintenance for the wife and two children, which, in my opinion, is not excessive.

The contention of the petitioner that the wife is living an adulterous life is prima facie not acceptable and the same appears to be a bald defence taken by the petitioner.

The Supreme Court, in the case of **Anju Garg and Another v. Deepak Kumar Garg**, reported in **2022 SCC ONLINE 1314**, has held that it is the sacrosanct duty of the husband to provide financial support to the wife and to the



minor children and the husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds.

In the case of **Chaturbhuj v. Sita Bai**, reported in **(2008) 2 SCC 316**, the Supreme Court has also held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy.

I have already noted that the conduct of the petitioner in course of the maintenance proceeding appears to be mala fide with an intention to delay the disposal of the maintenance case by adopting delaying tactics in abuse of the process of the Court.

In view of the aforesaid discussion, I come to the conclusion that the impugned order of interim maintenance of a meager amount of Rs. 1500/- per month does not require any interference by this Court.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

AFR/
Prabhakar Anand/-

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