

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1442 of 2017**

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Vijay Shankar Roy @ Vijay Kumar Roy S/o Balmiki Roy, Resident of
Village- Baro Rampur Tola, P.S.- Phulwaria, District- Begusarai.

... .. Petitioner/s

Versus

Rinku Devi W/o Vijay Shanker Roy @ Vijay Kumar Roy, Resident of
Village- Mohanpur, P.S.- Mufassil, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saroj Kumar Sharma, Advocate
For the Respondent/s : Mr. Arun Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

4 22-06-2023 Heard learned counsel for the parties.

2. This Civil Miscellaneous Application has been filed under Article 227 of the Constitution of India against the order dated 30.03.2017 passed by learned Principal Judge, Family Court, Begusarai in Maintenance Case No. 58 M / 2011 whereby the Court has directed the petitioner to pay Rs. 5,000/- per month as maintenance to respondent-wife.

3. It appears from the petition and the material on record that the marriage between the petitioner and the respondent was solemnized on 26.01.1989 as per Hindu Rites and Ceremonies. Duragman was held in the year 1993. It is alleged by the respondent that she was tortured by the petitioner



and driven out from her matrimonial home and petitioner-husband solemnized his second marriage. The respondent filed a Criminal Complaint Case No. 1879 (C) of 2007 under Section 498A of I.P.C. against the petitioner and his family members in which he has been granted anticipatory bail by this Court on certain conditions. The respondent filed the aforesaid maintenance case.

4. Learned counsel for the petitioner submits that the respondent / wife is running tailoring shop and maintaining herself and accordingly the impugned order is not justified and liable to be set aside. He further submits that respondent / wife herself does not want to live with the petitioner without sufficient reason and accordingly, she is not entitled for any maintenance. He further submits that learned Court below mechanically passed the impugned order without considering all relevant factors including need of wife, earning of husband and capacity to earn. Petitioner was always ready to keep his wife with honour and dignity.

5. On the other hand, learned counsel for the respondent / wife submits that the impugned order has been passed on consideration of the facts and circumstances of this case but the petitioner failed to comply with the maintenance order. The



petitioner has deserted the respondent / wife and solemnized his second marriage. Being the wife having no source of income is entitled for her maintenance. He further submits that the impugned order is reasoned order and is not liable for interference by this Court in its supervisory jurisdiction. He has denied that the wife is doing tailoring work and he further submits that the conduct of the petitioner shows that he has neither complied the order of the learned Court below nor the direction given by this Court vide order dated 01.08.2018 and 26.04.2023. He points out that the petitioner deliberately not complied the direction of this Court to file affidavit with respect to compliance of the order dated 01.08.2018 by which he was directed to keep paying Rs. 3,000/- per month for the maintenance of his wife during the pendency of this Civil Court. He has not come before this Court with clean hand and on this ground alone this petition is liable to be dismissed with heavy cost.

6. Heard the learned counsel for the parties and perused the materials on record. It is not in dispute that the respondent / wife is legally wedded wife of the petitioner. The petitioner filed the maintenance case bearing Case No. 58M of 2011 in the Court of learned Principal Judge, Family Court, Begusarai under



Section 125 Cr.P.C.. On the basis of the pleading, evidence, oral as well as documentary and considering the facts and circumstances and hearing the learned counsel for the parties, the learned Court below has passed the impugned order dated 30.03.2017 and directed the petitioner to make the payment of Rs. 5,000/- per month as maintenance for his wife. The Court has given the reasons in detail for passing the said order. Even otherwise this Court also finds that Rs. 5,000/- per month maintenance amount in the facts and circumstances of the case is not liable to be interfered by this Court in its supervisory jurisdiction.

7. Considering the submission of the learned counsel for the parties and considering the materials on record, this Court finds that there is no illegality or perversity in the order impugned which needs interference by this Court and under Article 227 of the Constitution of India. The petition is devoid of merit and liable to be dismissed. This Civil Miscellaneous Application is, accordingly, dismissed.

8. The learned Court below is directed to ensure the payment of the said maintenance amount by the petitioner to the respondent in accordance with law.



9. With this observation this Civil Miscellaneous
Application is disposed of.

(Sunil Dutta Mishra, J)

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