

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23347 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- West Champaran

Raju Kumar Sah Son Of Surendra Prasad Sah R/O Village- Lauriya Mishra Tola, P.S.- Lauriya, Dist.- West Champaran, At Present Assistant Loco Pilot, New Railway Colony Flat No. 718/E, Near Santoshimata Mandir, Sabarmati, P.S.- Sabarmati, Dist.- Ahmadabad (Gujarat)

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Surbhi Kumari Wife Of Raju Kumar Sah, Daughter Of Vinod Kumar R/O Village- Lauriya Mishra Tola, P.S.- Lauriya, Dist.- West Champaran, At Present Chanpatiya Ward No. 07, Police Station- Chanpatiya, Dist.- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra, Advocate
For the Opposite Party/s : Mr. Prem Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 19-07-2024 Heard the learned Advocate for the petitioner and the learned Government Advocate.

2. The petitioner is aggrieved by the order dated 11.02.2021, passed by the learned Principal Judge, Family Court, West Champaran, Bettiah in Maintenance Case No. 16 of 2018, whereby the petitioner has been directed to pay an amount of Rs. 10,000/- per month interim maintenance to the O.P. No. 2 and Rs. 5,000/- to her son, which will be effective from the month of September, 2019. It was also observed that the arrears of interim maintenance for O.P. No. 2 and her minor son shall be made within two months from the date of the order.



3. Learned Advocate for the petitioner submitted with all vigor that without any justifiable and sufficient reason, the O.P. No. 2 refused to live with the petitioner. A petition for restitution of conjugal right has also been preferred wherein, the O.P. No. 2 also entered her appearance. But despite all the efforts, and the prayer made by the petitioner, she refused to enter in the conjugal relationship, till date.

4. After some argument, learned Advocate for the petitioner apprised this Court that the matter is likely to be disposed of finally as the witnesses have already been examined on behalf of the O.P. No. 2. It is also contended that the petitioner undertakes that he will ensure the payment of arrears of maintenance, subject to the final outcome of the maintenance case. It has been informed that the O.P. No. 2 and her son are getting interim maintenance since January, 2022, without any interruption.

5. On the other hand, learned Advocate for the O.P. No. 2 while refuting the contention of the petitioner submitted that despite the specific direction of the Family Court, arrears of maintenance has not been accorded to the O.P. No. 2 and her son.

6. At this stage, learned Advocate for the petitioner



seeks permission to withdraw the present application with a liberty to raise all the pleas before the Family Court.

7. Suffice it to say that both the party shall abide by the decision of the Family Court, who is in seisin of the matter and has already passed an order of interim maintenance in favour of the O.P. No. 2 and her son.

8. With these observations, the quashing application stands disposed of with the liberty to the petitioner, aforesaid. It is expected that both the party shall co-operate in disposal of the maintenance case and the learned Family Court shall take all the efforts to conclude the same, as early as possible.

(Harish Kumar, J)

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