

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27462 of 2021**

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

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Suman Kumar, S/O- Nathuni Prasad, Junior Account Assistant, Vidyut Aapurti Awar Paramandal, Masaudhi, P.O. and P.S. - Masaurhi, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smita Bharti, W/O- Suman Kumar, D/O- Dashrath Bhagat, R/O- Mohalla- Samir Nagar, Ward No.- 25, Jail Road, Near Block, P.O.- Koshi College, P.S.- Chitraguta Nagar, District- Khagaria.
3. Anshika Bhagat, D/O- Suman Kumar, represented through her mother namely Smita Bharti, R/O- MOhalla- Samir Nagar, Ward No.- 25, Jail Road, Near Block, P.O.- Koshi College, P.S.- Chitraguta Nagar, District- Khagaria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Deovind Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Anil Kumar Singh No., Advocate
	Mr. Rajesh Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT**

Date : 05-07-2024

The petitioner is aggrieved by the order dated 20.01.2021 passed by the learned Principal Judge, Family Court, Khagaria in Case No. 94/2018 by which the learned Family Court allowed the petition of ad-interim maintenance in favour of opposite party nos. 2 and 3 and directed the petitioner to make payment of Rs.5,000/- as ad-interim maintenance from 06.01.2020 along with litigation cost of Rs.1,000/- per date.

2. Bereft of unnecessary details, the opposite party no.2 filed Maintenance Case No. 94/2018 under Section 125 of the Cr.P.C. against the petitioner with a prayer to pay Rs.25,000/- per month and Rs.1,000/- per date as litigation cost.



3. The aforementioned reliefs has been sought for on the ground that opposite party no.1 has no source of income to maintain herself and her minor daughter (opposite party no.2), whereas the petitioner has sufficient source of income from Government job and getting salary for about 42,000/-. That apart, the petitioner has other source of income through rent and agriculture. It was also submitted on behalf of the opposite parties that the petitioner is not taking any care either for medical, food, clothes or daily needs, which compelled her to file the maintenance case.

4. The petitioner filed his reply to the maintenance petition filed on behalf of opposite parties and submitted that he is ready to keep the opposite party nos.2 and 3 with full honour and dignity and prayed that the petition for maintenance is fit to be rejected.

5. After taking all the materials available on record, the impugned order dated 20.01.2021 came to be passed by the learned Principal Judge, Family Court, Khagaria directing the petitioner to ensure payment of maintenance amount and litigation cost stated hereinabove.

6. Learned Advocate for the petitioner while assailing the impugned order contended that the ad-interim order has been obtained by suppressing the fact that opposite party no.2 is



unable to maintain herself, whereas she is a Government Teacher working on contractual basis and getting handsome salary. A photo copy of the letter received under Right to Information Act has been placed on record as Annexure-4 to this petition.

7. The aforesaid letter obtained under Right to Information Act demonstrates that the petitioner was appointed as Prakhanda Teacher in the Middle School, Corchakka, Parbatta, Khagaria on 22.02.2014 in the pay scale of Rs. 5200-20200. The opposite party no.2 further submitted her resignation on 13.01.2021.

8. Adverting to the aforesaid facts, learned Advocate for the petitioner thus submitted that opposite party no.2 is quite abled to maintain herself and she is getting handsome salary from her job. Thus, in any view of the manner she is not entitled to get relief under Section 125 of the Cr.P.C. It is also the contention of the petitioner that the petitioner has always been remain ready and willing to keep the opposite party no.2 and 3 with full honour and dignity, but they refused to reside with the petitioner without their being any justifiable reason and on this count also they are not entitled for any maintenance.

9. Learned Advocate for opposite parties contended that on account of continuous torture and cruelty, the opposite party



no.2 was compelled to leave the matrimonial home, while she was pregnant and thereafter the petitioner has never been taken care of either the opposite party no.2 or her daughter opposite party no.3. It is also contended that the petitioner, apart from holding the post of Junior Engineer in the Electricity Department, Government of Bihar has various other source of income and, as such, it is the obligation of the husband to ensure that his wife leads a life in a similar manner, as she would have lived in the house of her husband. It is the sacrosanct duty of the husband to render support was the contention of the learned Advocate for the opposite parties.

10. This Court has heard the rival contention of the respective parties and also perused the materials available on record. The marriage between the petitioner and opposite party no.2 stands admitted, as also the baby child (opposite party no.3) has been born out of the said wedlock. It is also evident that the opposite party nos. 2 and 3 have been ousted from the matrimonial home and that is why opposite party no.2 and her minor daughter are living at her parental house.

11. Once the marriage is admitted and is a valid marriage, husband or any able bodied young man is duty bound to maintain his wife and children. The Hon'ble Supreme Court in the case of ***Ramesh Chandar Kaushal Vs. Veena Kaushal***, reported in



(1978) 4 SCC 70 has held the provisions regarding grant of maintenance is a measure of social justice, specially enacted to protect women and children, which falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution.

12. So far the contention of the petitioner that since the wife of the petitioner is capable enough to maintain herself, as the interim maintenance granted is not sustainable, in the opinion of this Court is wholly misconceived for the simple reason that the petition for maintenance has been filed on behalf of the wife and her daughter, who are entitled in law to lead a life in the same manner, as they would have lived in the house of the husband/father.

13. The contention of the petitioner that the opposite party no.2 has left the matrimonial home without any justifiable reason and reside in her parentage home with her daughter without there being any justifiable reason is also found no merit, as it is the case of the opposite party no.2 that because of the cruelty and torture meted to her, she was compelled to leave her matrimonial home. Apart from the aforesaid allegation it was also contended on behalf of the opposite parties that the petitioner has completely failed to maintain and take care of them.



14. Even if the contention of the petitioner is accepted that it has not been disclosed that the wife of the petitioner was posted as a Block Teacher and/or the circumstances has changed, which warrant interference in the impugned order, suffice it to say the remedy is available to the petitioner under Section 127 of the Cr.P.C.

15. This Court is also of the opinion that the learned Principal Judge, Family Court, Khagaria has awarded a meager amount of Rs.5,000/- per month, as ad-interim maintenance to the wife and her minor daughter and a litigation cost of Rs.1,000/- for each date in the case, which is not excessive, especially keeping in mind the inflation rate and high cost of living index prevailing today.

16. There is no merit in the present petition. Accordingly, the same stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2024
Transmission Date	NA

