

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2137 of 2015

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Md. Nematullah @ Md. Rahmatullah Son of Late Md. Abdul Subhan @
Gulam Rasul Resident of Village + Post Dehad, P.S- Sonbersa Raj District -
Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar
2. Tabassum Prabeen Wife of Nemtaulla @ Md. Rahmatullah, D/o
Kalimuddin @ Kallu Phalwala Resident of Dilawarpur, Kali Tajiya, Post-
Munger, P.S- Munger, District Munger

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar, Adv.

For the Opposite Party/s : Mr. Md. Sufiyan (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

4 23-12-2016 Heard both sides.

The petitioner filed this petition for quashing the order dated 14.08.2014 passed by the Principal Judge, Family Court, Munger in Maintenance Case no. 42/14 filed under Section 125 of the Cr.P.C.

The wife claimed maintenance for herself and for her minor son. The wife/applicant alleged that her husband after assaulting her, drove her out from the house on 15.04.2005. The wife gave birth to a child namely, Md. Tabbak on 21.10.2005 and she has got no source of income to subsist. The wife stated that her husband is Imam and he is getting salary of Rs. 90,000/- besides monthly income of Rs. 20,000/- from business and agriculture.



The wife claimed Rs. 10,000/- per month, as maintenance for herself and Rs. 5,000/- per month for her minor son. The husband/petitioner did not appear in the court and the case was decided ex-parte presuming the income of the husband/petitioner on the basis of minimum wages and the husband/petitioner was directed to pay a sum of Rs. 1,500/- per month to his wife and Rs. 1,000/- per month to the son. Besides that petitioner/husband was directed to pay a sum of Rs. 5,000/- towards litigation cost by the order impugned.

Learned counsel for the petitioner submits that the petitioner is getting salary of Rs. 4,000/-, and the amount of maintenance is excessive. Petitioner is ready to keep his wife, but it appears that petitioner has not appeared in the Court of Principal Judge, Family Court, Munger and the case was decided ex-parte. Petitioner annexed his salary slip vide annexure-2 to show that he is getting Rs. 4,000/- per month as salary, but it appears that Rs. 4,000/- as salary of the petitioner was fixed in the year 2008 and the order was passed on 14.08.2014. The learned Principal Judge directed the petitioner to pay Rs. 1500/- p.m. to his wife and Rs. 1000/- p.m. to his child for their maintenance on the basis of income calculated on earning of minimum wages i.e. Rs. 5,200/- Now, the minimum wages has also been enhanced, therefore, I



find that the amount of Rs. 1,500/- per month to the wife and Rs. 1,000/- per month to the son is just and proper.

Accordingly, I do not find any merit in this petition and the same is dismissed.

(Prabhat Kumar Jha, J.)

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