

Dhiraj Kumar Vs. State of Bihar and anr

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Court : Patna

Decided On : May-24-2012

Appellant : Dhiraj Kumar

Respondent : State of Bihar and anr

Advocate for Pet/Ap. : Mr. Raj Kishore Prasad

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Revision No.695 of 2010 Dhiraj Kumar Versus The State of Bihar & Anr. ----- 2.
24.01.2012 Mr. Raj Kishore Prasad, learned counsel for the petitioner and learned A.P.P. for the State are present. This application is directed against the order dated 12.4.2010 passed by the Principal Judge, Family Court, Aurangabad in Misc. Case No. 45/2008 by which the petitioner has been directed to pay Rs. 4,000/- per month as interim maintenance to opposite party no.2. Learned counsel for the petitioner submits that after marriage in the year 2005 the opposite party no. 2 gave birth to a child in her maternal house but when the petitioner went to bring her back she did not come, which forced him to give legal notice on 24.5.2008 for return of his wife but the same remained unanswered. The petitioner then filed Matrimonial Case No. 56 of 2008 on 23.6.2008 before the Principal Judge, Family Court, Nalanda for restitution of conjugal rights. Initially notice was issued under various modes by the Court concerned and finally paper publication was also made but opposite party no. 2 did not appear in the said case and finally by order dated 20.1.2009 ex-parte order 2 was passed in favour of the petitioner

directing the opposite party no.2 to live with the petitioner. Learned counsel submits that opposite party no. 2 had knowledge about pendency of the matrimonial case for restitution of conjugal rights and therefore she filed a miscellaneous case on 12.9.2008 before the Principal Judge, Family Court, Aurangabad being Misc. Case No. 45 of 2008 in which the present order has been passed. Learned counsel submits that the petitioner appeared in the said case and produced a copy of the order dated 20.1.2009 and upon consideration, the Court concerned directed the opposite party no. 2 to go and live with the petitioner. He submits that the same was complied with and the petitioner was peacefully living with opposite party no. 2 and during that period she also became pregnant and gave birth to a child. He submits that when again opposite party no. 2 went to her maternal house, due to the intervention of her parents, she did not come back. Learned counsel submits that there is absolutely no other reason for opposite party no. 2 not to live with the petitioner though he is ready to keep her and his children with full dignity, honour and security. Learned counsel also submits that the past conduct of the opposite party no. 2 shows that there is no serious grievances against the petitioner and rather whenever 3 she comes to meet her parents, due to their interference this situation has arisen. Issue notice to opposite party no.2 both under registered cover with A/D as well as under ordinary process for which requisites etc. must be filed within two weeks from today. List soon after service of notice among top 20 cases. Until further orders, the order dated 12.4.2010 passed by the Principal Judge, Family Court, Aurangabad in Misc. Case No. 45 of 2008 shall remain stayed. Let the order be communicated to the Court below through fax on deposition of the requisite fee on behalf of the petitioner. (Ahsanuddin Amanullah, J.) Anand Kr.

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