

**(2017) 05 JH CK 0005**

**JHARKHAND HIGH COURT**

**Case No:** 71 of 2017

Birendra Kumar Sinha

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

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**Date of Decision:** May 2, 2017

**Acts Referred:**

- Hindu Marriage Act, 1955, Section 9 - Restitution of conjugal rights

**Hon'ble Judges:** Anant Bijay Singh

**Bench:** SINGLE BENCH

**Advocate:** Mahesh Tewari, P.P.N. Roy

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**Judgement**

1. I.A. No. 2651 of 2017 has been filed with a prayer that the order dated 23.02.2017 may kindly be reconsidered and the part of the order directing the petitioner to pay Rs. 25,000/- per month to the O.P. No.2 by way of ad-interim maintenance from the January, 2017 may kindly be strucked down.

2. Learned counsel for the petitioner has submitted that this court under order dated 23.02.2017 in presence of the parties has passed the following order:-

Further petitioner is directed to pay Rs. 25,000/- per month to the O.P. No.2 by way of ad-interim maintenance from the month of January, 2017.

Further petitioner is directed to deposit arrears of the January to March, 2017 i.e. Rs. 75,000/- in the trial latest by 10.04.2017

3. Learned counsel for the petitioner has also submitted that petitioner was directed to deposit arrears of January to March, 2017 i.e. Rs. 75,000/- before the trial Court latest by 10.04.2017.

4. Learned counsel for the petitioner has submitted that this court has failed to appreciate the O.P. No.2 are practicing employee of Medica Hospital, Jharkhand and initially working in Medica Hospital but subsequently she is working in Tata Motors Telco Hospital, Jamshedpur and also having private practice and he has not made any claim for any maintenance.

5. Learned counsel for the petitioner has submitted that petitioner has maintained here sister who is dependent upon him and resides at Delhi and while leaving her house at Delhi, O.P. No.2 had already taken the entire money from the household amount to Rs. 5,00,000/- and deposited in her account on 05.04.2015 which is quite evident from the statement of bank account of O.P. No.2 and even as on date there is credit balance of Rs. 15,63,975/- in the account of O.P. No.2 in this regard copy of the Axix bank of O.P. No.2 has been annexed, hence the order dated 23.02.2017 be recalled.

6. Learned counsel for the O.P. No.2 has filed rejoinder to the interlocutory application on 24.04.2015 and stated that petitioner is an Engineer and getting Rs. 40,000/- per month and as per HDFC Bank's statement on 30.01.2016, Rs. 1,41,800/- per month salary of the petitioner. It is also submitted that O.P. No.2 was fully mentally disturbed and also feels depressed. It is also submitted that O.P. No.2 has selected to join in Bharti Hospital, Pune on 20.03.2016 in pediatrics Neurology for two years and thereafter she has joined Bharti Vidyapith Deemed University, Bharti Hospital and Department of Pediatrics, Pune on 20.03.2017 for IAP Fellowship in Pediatrics Neurology. Admission fee of Rs. 24,000/- was paid on 23.03.2017 and hostel fee for Rs. 30,000/- was paid for three months. It is also submitted that petitioner has filed a case bearing H.M.A case No. 17453 of 2016/H.M.A. Case No. 562594 of 2016 before the Principal Judge, Family Court, Rohini under section 9 of Hindu Marriage Act where petitioner's has shown the income of Rs. 1,25,090 and monthly expenditure of Rs. 1,17,822/-. On the basis of submission, learned counsel for the O.P. No.2 has rightly passed the order for payment of ad-interim maintenance of Rs. 25,000/- per month to the O.P. No.2.

7. In order to trace the bonafide petitioner wants to reunion and next date is fixed on 20.07.2017. After hearing the parties and going through the record and document filed by the petitioner and petitioner himself admitted before the Principal Judge, Family Court, Rohni his monthly income of Rs. 1,25,000/- and also the document filed by the O.P. No.2 there is no merit in the interlocutory application.

8. Accordingly, I.A. No. 2651 of 2017 stands dismissed. Further petitioner is directed to pay Rs. 25,000/- to the O.P. No.2 and deposit arrears from the month of January, 2017 to May, 2017 total Rs. 1,25,000/- latest by 24.05.2017 before the trial Court.

9. List this case on the date fixed i.e. on 20.07.2017.