

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.267 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- SIWAN

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1. Munna Bharti Son Of Nand Kishore Bharti Resident Of Village- Sawana Ke Mathia, P.S- Barharia, Distt- Siwan, At Present Resident Of Nawjiwan Bihar Colony, P.O- Bindanagar, H. No. 113, Mig, Distt- Singrauli (M.P)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Punam Bharti Daughter Of Pasupati Bharti, Wife Of Munna Bharti Resident Of Village- Sawana Ke Mathia, P.S- Barharia, Distt- Siwan, At Present Resident Of Barahan Mathia, P.S- Siwan Muffasil, Distt- Siwan.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Chandra Kant, Advocate
For the State : Mr. Umeshanand Pandit, APP
For O. P. No. 2 : Mr. Raju Giri, Advocate
Mr. Santosh Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 14-12-2016

This application, under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, has been filed against the order, dated 08.01.2014, passed, in Criminal Appeal No. 04 of 2012, by the learned Sessions Judge, Siwan, whereby he has allowed the appeal preferred by the Opposite Party No. 2 against an order, dated 21.02.2012, passed by the learned Judicial Magistrate, 1st Class, Siwan, in Domestic Violence Case No. 01 of 2011, and ordered to pay a sum of Rs. 7,500/- per month as monetary relief to Opposite Party No. 2 for maintenance of herself and her son.

2. Heard learned Counsel for the petitioner, learned Counsel appearing on behalf of Opposite Party No. 2 and



learned Additional Public Prosecutor representing the State.

3. There is no dispute that the petitioner and Opposite Party No. 2 are husband and wife. The Opposite Party No. 2 filed Domestic Violence Case No. 01 of 2011, making several allegations, including the allegation that she and her son born out of the wedlock had been neglected. The Judicial Magistrate, 1st Class, Siwan, by an order, dated 21.02.2012, directed the petitioner to allow the Opposite Party No. 2 and their son to reside in the shared ancestral house at *Sawna Ke Mathia* in the district of Siwan and pay a sum of Rs. 5,000/- to Opposite Party No. 2 by way of compensation as stipulated under Section 22 of the Domestic Violence Act.

4. Aggrieved by the said order passed by the learned Judicial Magistrate, 1st Class, Siwan, the Opposite Party No. 2 preferred an appeal, which gave rise to Criminal Appeal No. 04 of 2012, before the learned Sessions Judge, Siwan. The learned Sessions Judge, Siwan, by the impugned judgment and order, dated 08.01.2014, has directed payment of maintenance amount to Opposite Party No. 2 at the rate of 7,500/- per month for maintaining herself and the only son of the petitioner and the Opposite Party No. 2.

5. Learned Counsel appearing on behalf of the petitioner has submitted that the maintenance amount directed to be paid by the learned Court below is excessive, considering the petitioner's income.



6. I have perused the impugned judgment and order and other materials on record. The petitioner is an Electrical Engineer. He had taken a plea before the learned Court below that his monthly income was Rs. 12,000/- only, which has been disbelieved by the learned Appellate Court. The learned Appellate Court came to a conclusion that in any view of the matter, the income of the petitioner could not be less than Rs. 15,000/- per month. In such circumstance, the Court below directed the petitioner to pay 50 per cent of his monthly income for maintaining his wife and the only son.

7. Further, it transpires that father of the petitioner is a contractor and does his business in the name of Munna Electrical Works (the firm appears to have been apparently named after the name of the petitioner).

8. Considering the entire circumstances and other materials on record, the amount of maintenance awarded by the Court below cannot be said to be excessive.

9. This application has no merit and it is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.12.2016
Transmission Date	20.12.2016

