

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Revision No.747 of 2014**

=====

1. Subodh Kumar @ Subodh Singh son of Late Upendra Prasad Singh, resident of village- Pahsara, P.S.- Nao Kothi in the district of Begusarai, presently working as Assistant Teacher, B.S.S. Collegiate +2 School, Begusarai, P.S.- Begusarai Town in the district of Begusarai

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Pushpanjali Devi @ Pushpanjali D/of Late Amarnath Rai, resident of village- Lohiya, P.S.- Bhagwanpur in the district of Begusarai

.... .... Respondent/s

=====

with

**Criminal Revision No.84 of 2015**

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

=====

1. Puspanjali Devi @ Puspanjali D/O Late Amarnath Singh, Wife of Subodh Kumar Resident of vill-Pahsara, P.S.-Naokothi, Distt.-Begusarai, at presently residing at Vill.-Lohia, P.S.-Bhagwanpur, Distt.-Begusarai

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Subodh Kumar @ Subodh Singh S/O Late Upendra Prasad Singh Resident of vill-Pahsara, P.S.-Naokothi, Distt.-Begusarai, at presently residing at Mohalla-Lohia Nagar, P.S+, Distt.-Begusarai, Working as Assistant Teacher B.S.S Collegiate +2 School, Begusarai, P.S.-Begusarai Town, Distt.-Begusarai.

.... .... Respondent/s

=====

**Appearance :**

(In CR. REV. No.747 of 2014)

For the Petitioner/s : Mr. Akhileshwar Pd. Singh, Sr. Advocate  
With Mrs. Anita Kumari Singh

For the Respondent/s : Mr. Sanjay Kumar Pandey (App)  
(In CR. REV. No.84 of 2015)

For the Petitioner/s : Mr. Devendra Prasad Singh  
For the Respondent/s : Mr. J.N. Thakur (App)

=====

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI**  
**SHARAN SINGH**  
ORAL ORDER

5      23-01-2017

Since both the criminal revision applications arise



out of the same order, dated 02.07.2014, passed by the learned Principal Judge, Family Court, Begusarai in Case No. 56(M) of 2004/380 of 2013 and the parties to the proceedings are same, both the cases have been heard together with the consent of the parties and are being disposed of by the present common judgment and order.

2. For the benefit of the convenience, the parties are being described in the present judgment and order according to their description given in Criminal Revision No. 747 of 2014.

3. The petitioner of Cr. Revision No. 747 of 2014 is aggrieved by an order dated 02.07.2014 passed by the learned Principal Judge, Family Court, Begusarai in Maintenance case No. 56(M) of 2004/380/2013, whereby learned Court below has allowed monthly maintenance at the rate of Rs. 1500/- for the period 24.08.2004 to 30.06.2014 and Rs. 3000/- thereafter, i.e., from July, 2014 in favour of Opposite party No.2, payable by the petitioner. Matrimonial relationship of husband and wife between the petitioner and Opposite party No.2 is not in dispute. The impugned order is being assailed primarily on the grounds, which have been set out in the present criminal revision applications filed under Section 19(4) of the Family Court's Act, 1984, which read thus:-



*"(ii) For that the learned Principal Judge has failed to appreciate the orders of this Hon'ble Court contained in Annexures 1,3 and 4.*

*(iii) For that the learned Principal Judge ought to have dropped the proceeding in view of consent order passed by this Hon'ble Court in Cr. Misc. No. 1308 of 2009 contained in Annexure-1.*

*(iv) For that the learned Principal Judge also failed to appreciate that Rs. 1500/- per month as maintenance was agreed amount with respect to which this Hon'ble Court under order dated 26.07.2010 passed in Cr. Misc. No. 1308 of 2009 and also order dated 14.03.2012 passed in Cr. Misc. No. 39416 of 2011 contained in Annexures 1 and 3 respectively."*

4. Annexure-1 of the application is an order, dated 26.07.2010, passed in Criminal Misc. No. 1308 of 2009 by this Court. In the said Criminal Misc. No. 1308 of 2009, criminal case lodged by the Opposite party No.2 being Town P. S. Case No. 225 of 2007 was sought to be quashed in exercise of power under Section 482 of the Code of Criminal Procedure. It further appears from the said order, dated 26.07.2010 that interim maintenance at



the rate of Rs. 1500/- was allowed by the Family Court by way of interim maintenance in the said Maintenance Case No. 56(M) of 2004. Some kind of compromise between the petitioner and Opposite party No.2 has been recorded in the said order dated 26.07.2010 passed by this Court, relevant portion of which reads thus:-

*"Both the parties agree that at this stage of their lives when their marriage is about 29 years old, they should part amicably and not continue with any more prosecution than that which has already gone by.*

*In view of such, the only demand of Opposite party No.2 is that the petitioner should pay Rs. 1500/- per month as ordered by the Principal Judge on 05.11.2009 in Maintenance Case No. 56M of 2004.*

*The counsel for the petitioner submits that he has no objection to the same and is will to deposit the past due amount within the next three months. Once the same is deposited in the Court below, a certificate shall be filed in the present proceeding in proof of the same. As soon as it is filed in the present case the entire proceeding stand quashed.*

*It is made clear that in case the petitioner fails to pay the maintenance amount on two consecutive months, the opposite party No.2 shall be at liberty to revive this proceeding once again.*

*The petitioner has also agreed to withdraw the revision petition numbered as*



*Criminal Revision No. 1867 of 2009 in view of the compromise arrived here. The Opposite party No.2 shall not press the maintenance case numbered Maintenance Case No. 56M of 2004 any further.*

*The parties have also agreed to find a solution to ending the marriage amicably.”*

5. I must indicate that great emphasis has been laid by learned Senior Counsel appearing on behalf of the petitioner on the said order of this Court to assail the final impugned order passed in Maintenance Case No. 56M of 2004. In compliance of the order dated 26.07.2010, passed in Cr. Misc. No. 1308 of 2009, learned Chief Judicial Magistrate, Begusarai, dropped the further proceedings of Town P. S. Case No. 225 of 2007, registered for the offences punishable under Section 498A, 494 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act, by an order dated 25.11.2010.

6. An application was filed by the petitioner before the Principal Judge, Family Court, Begusarai in Maintenance Case for dropping the proceedings in the light of the said order, dated 26.07.2010. Learned Principal Judge, Family Court, however, refused to drop the proceedings of maintenance case by order dated 18.08.2011. The said order dated 18.08.2011 came to be



assailed by the petitioner through Criminal Revision No. 1140 of 2011. Two other Criminal Revision applications, one by Opposite party NO.2 and other by the petitioner were also filed and numbered respectively as Criminal Revision No. 134 of 2011 and Criminal Revision No. 1867 of 2009. These three applications were heard together by this Court. This Court disposed of all the three applications by an order, dated 29.08.2012, which reads thus:-

*"The petitioner of Cr. Revision No. 1140 of 2011 has filed the present application against the order dated 18.08.2011 passed by the Principal Judge, Family Court, Begusarai, in Maintenance Case No. 56-M of 2004 by which he has refused to drop the proceeding in view of the order dated 26.07.2010 passed in Cr. Misc. No. 1308 of 2009.*

*The background facts of the case is that the petitioner had filed an application for quashing of entire proceeding of Begusarai Town P. S. Case No. 225 of 2007 including the order dated 08.12.2007 by which the Chief Judicial Magistrate, Begusarai, had taken cognizance under Sections 498A, 494/34 of the Indian Penal Code. In the said application, opposite party no.2 was noticed, who appeared before this Court and thereafter both the parties agreed that since their marriage was about 29 years old, they should part amicably and not continue with*



*any more prosecution that that which has already gone by. In view of such, the Opposite party No.2 made a demand of Rs. 1,500/- as granted by the Principal Judge, Family Court, Begusarai, on 05.11.2009 in Maintenance Case No. 56M of 2004 to which the petitioner had no objection. This Court then proceeded to quash the proceeding once certificate of proof of deposit of the same was given by the petitioner in the Court below. As per the understanding between the parties, this Court recorded that Cr. Revision No. 1867 of 2009 filed by the petitioner for reduction of Rs.1500/- was agreed to be withdrawn as Opposite party No.2 also undertook not to press the maintenance case. Subsequently, the Opposite party No.2 changed her mind and filed a modification application that she had not given such undertaking vide Cr. Misc. No. 39416 of 2011, which was dismissed on the submission of the Opposite party No.2 that she had filed the application on misconception.*

*Now, the position is that the petitioner is still ready to abide by his undertaking given by him before this Court and has proposed that parties divorce each other on mutual consent. However, the Opposite party No.2 wishes to litigate further with the petitioner.*

*In view of such, all the applications are disposed off with liberty to the parties to*



*proceed in accordance with law.”*

7. It can be easily seen from the order dated 29.08.2012, that the Court allowed the parties to proceed in accordance with law since the Opposite party No.2 was not willing to compromise on the question of maintenance. The Court did not interfere with the order, dated 18.08.2011 passed by learned Principal Judge, Family Court, Begusarai, whereby he had refused to drop the proceedings. In my view, therefore, plea on behalf of the petitioner that in view of the order of this Court dated 26.07.2010, the Family Court ought not have proceeded with the maintenance case, cannot be accepted. The order, dated 29.08.2012 of this Court gave the parties a liberty to proceed in accordance with law.

8. An additional submission has been made by the learned Senior Counsel appearing on behalf of the petitioner. According to him, the Opposite party No.2 is herself employed as a Teacher in a Government High School and, therefore, she is able to maintain herself. Though evidence to this effect was available before the Court below, the same has not been duly appreciated, learned Senior Counsel has contended. In support of this submission, he has relied on deposition of Opposite party No.2, which has been brought on record by way of Annexure-5 to the present application. From the impugned



order I have noticed that learned Court below has taken into account this aspect that salary of the Opposite party No.2 at the time of the passing of the order was Rs. 14,000/- per month. At the same time, he has also taken into account different diseases, which she has been suffering from requiring additional expenses. Income of the petitioner as on that date, has been found to be Rs. 42,000/- per month as salary on which he earns dearness allowance.

9. This is an admitted fact that the petitioner has solemnized second marriage though petitioner and Opposite party No.2 are not legally separated.

10. In such circumstance, I do not find any illegality in the impugned order.

11. This application is, accordingly, dismissed.

12. In Criminal Revision No. 84 of 2015, the Opposite party No.2 has challenged the same order dated 02.07.2014 on the ground that maintenance amount awarded by the Court below in Maintenance Case No. 56M of 2004/380 of 2013 is not adequate and not proportionate to the income of the petitioner. It has been contended that income of the petitioner is Rs.82,000 to 84,000/- per month and adequate maintenance allowance ought to have been granted by the Court below, keeping in view the



expenses which the Opposite party No.2 has to meet for the treatment of her ailments.

13. I have perused the impugned order and have considered the materials on record and submissions advance on behalf of the parties. The assessment of the Court below, while fixing monthly maintenance allowance, in the facts and circumstances of the case, cannot be said to be unreasonable and unjustified requiring this Court's interference in revisional jurisdiction.

14. It is, however, made clear that it will be open to the parties to take recourse to Section 127 of the Code of Criminal Procedure, 1973 for alteration in allowances on the ground of change in the circumstance.

15. Both the applications are dismissed but with the observation as above.

ArunKumar/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

**(Chakradhari Sharan Singh, J)**

