

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.120 of 2015

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1. Shambhunath Choudhary son of Satish Chandra Choudhary, resident of village- Nehra, P.S. Manigachhi, District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Bindu Devi wife of Shambhunath Choudhary, daughter of Prabodh Jha resident of village- Amadat, P.S. Rajnagar, District Madhubani
3. Priti Kumari daughter of Shambhunath Choudhary, Minor Under Guardianship of her mother namely Bindu Devi resident of village- Amadat, P.S. Rajnagar, District Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Kumar

For the Respondent/s : Mr. Umesh Lal Verma(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 07-03-2017 Heard learned counsel for the parties.

2. The petitioner seeks setting aside of the order dated 04.12.2014 passed by the learned Principal Judge, Family Court, Madhubani in M. R. No. 190 of 2011, whereby he has allowed monthly maintenance allowance at the rate of Rs. 2,500/- for Opposite party No.2, the petitioner's wife and Rs. 1500/- for Opposite party No.3, the petitioner's minor daughter.

3. Learned counsel appearing on behalf of the petitioner has submitted that while passing the impugned order, learned Court below has not taken into account an order, dated 22.11.2012 passed in Cr. Misc. No. 40611 of 2012, under which the petitioner



had been paying monthly maintenance at the rate of Rs. 2000/- per month. He has, accordingly, submitted that the Court below ought not to have fixed Rs. 4,000/- per month as monthly maintenance allowance for the Opposite Party No. 2 and Opposite party no.3, considering the financial condition of the petitioner. He has also submitted that since the complaint case is pending, therefore, no amount more than amount of Rs. 2000/- could have been awarded by the Family Court.

4. The submission advanced on behalf of the petitioner is totally misconceived.

5. On perusal of the order, dated 22.11.2012 passed by this Court in Criminal Misc. No. 40611 of 2012, it appears that the petitioner had expressed his willingness to pay monthly maintenance allowance at the rate of Rs. 2000/- per month. There was no direction by this Court to pay the said amount as maintenance.

6. Secondly, the Court below has directed payment of total sum of Rs. 4,000/- for maintenance of not only Opposite party No.2 but also the minor daughter, who is Opposite party No.3. Fixation amount of Rs. 4,000/- by the Court below to Opposite party No.2 and Opposite party No.3, in the facts and circumstances of the case, cannot be said to be excessive.



7. It is made clear that the said amount of Rs. 2000/- per month, which the petitioner had undertaken to pay at the time of passing of the order dated 22.11.2012 in Criminal Misc. No. 40611 of 2012 will also form part of the monthly maintenance allowance, which has been awarded by the Court. In other words, the petitioner shall be required to pay the said amount of Rs. 4,000/- per month only and not the amount in terms of his undertaking given as recorded in the order, dated 22.11.2012 passed in Cr. Misc. No. 40611 of 2012.

8. This application is, accordingly, disposed of.

ArunKumar/-

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(Chakradhari Sharan Singh, J)

