

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.770 of 2014

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Sunil Singh, Son of Late Sriram Singh, R/o Vill.-Udant Raj Ka
Bangara, P.S.-Thawe, District-Gopalganj.

.... Petitioner/s

Versus

Nirmala Devi, Wife of Sunil Singh, Daughter of Sri Saral Singh,
R/o Vill.-Pithori, P.S.-Thawe, District-Gopalganj.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey, Adv.

For the Opposite Party : Mr. Subhash Patel, Adv.

For the State : Mr. Ranjit Ranjan, APP

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

ORAL JUDGMENT & ORDER

Date: 19-01-2017

Learned counsel, appearing on behalf of the
petitioner, has submitted that there was absolutely no basis
for the learned Principal Judge, Family Court, Gopalganj to
enhance the maintenance amount from a sum of Rs. 1,000/-
per month to a sum of Rs. 3,000/- per month inasmuch as
there was no evidence led before the learned court below to



make out a case under Section 127 of the Code of Criminal Procedure (*hereinafter referred to as the "Cr.P.C."*).

2. I have heard learned counsel appearing on behalf of the parties.

3. The criminal revision application, under Section 19(4) of the Family Courts Act, 1984, has been filed against an order, dated 15.01.2013, passed by the learned Principal Judge, Family Court, Gopalganj, in Miscellaneous Case No. 117 of 1995, whereby, he has enhanced the amount of maintenance, payable to the opposite party, from Rs. 1,000/- to Rs. 3,000/- per month.

4. On perusal of the impugned order, I find substance in the submission made on behalf of the petitioner that there is absolutely no discussion on the question of petitioner's ability to pay the enhanced amount.

5. The order, dated 15.01.2013, is accordingly set aside.

6. The matter is remanded back to the court below to consider the claim of the opposite party for enhancement of the maintenance amount under Section 127 of the Cr.P.C.. The opposite party shall be at liberty to adduce evidence before the learned court below in support of her plea of enhancement of maintenance amount in changed



circumstance.

7. Learned counsel, appearing on behalf of the opposite party, has submitted that opposite party is a poor lady and she is not in a position even to peruse her case effectively before the learned court below.

8. In view of the submission made on behalf of opposite party, it is observed that she will be at liberty to apply for seeking legal aid by approaching the District Legal Services Authority, Gopalganj.

9. Before I part with, I must take note of order, dated 14.11.2014, whereby, by way of interim measure, the petitioner was directed to pay a sum of Rs. 2,000/- per month in place of Rs. 1,000/- per month, which the petitioner is said to have been regularly paying. Apparently, thus, the petitioner is in a position to pay the opposite party a sum of Rs. 2,000/- per month as maintenance amount. It is, accordingly, directed that till final order is passed by the learned Principal Judge, Family Court, Gopalganj, in compliance of the present judgment and order, the petitioner shall continue paying to the opposite party, a sum of Rs. 2,000/- per month as maintenance amount. It is also indicated that in no circumstance learned Principal Judge, Family Court, Gopalganj, shall finally fix the amount of



maintenance, which is less than a sum of Rs. 2,000.

10. This application is, accordingly, disposed of but with the observation as above.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.1.2017
Transmission Date	23.1.2017

