

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.589 of 2016

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1. Firoz Khan s/o Heshamuddin Khan, resident of Qtr. No. L/1- DEPD Colony, Near Railway inter college, P.S.- Mugalsarai, (UP), Dist- Chandauli.

.... Petitioner/s

Versus

1. Nikhat Neyazi, w/o Firoz Khan, D/o Abrar Ahmad Khan.
2. Faizan Ali, S/o Firoz Khan Both residents of Qtr No. L/1 DEPD Colony Near Railway Inter College, P.S.- Mughalsarai, Distt- Chandali at preseth resident of Village- Akbarpur, P.S.- Rohtas, Dist- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Kashyap

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 31-01-2017 The present revision application has been listed under the heading "Orders" with office notes pointing out certain defects. However, with the consent of the learned counsel for the petitioner, this application is being disposed of at this stage itself, ignoring the said defects.

2. The petitioner is husband of Opposite party No.1. By an order dated 07.01.2016 passed in Maintenance Case No. 48 of 2010, the learned Principal Judge, Family Court, Rohtas at Sasaram has allowed sum of Rs. 6,000/- per month as maintenance allowance payable to Opposite party No.1, the wife (at the rate of Rs. 4,000/- per month) and Opposite party No.2, the minor son (Rs. 2,000/- per month).



3. My attention has been drawn to Annexure-4 of the present application by learned counsel for the petitioner while assailing the impugned order to convince this Court that net wages of the petitioner as on 14.10.2015 was Rs. 7976/- and in that background the fixation of maintenance allowance at the rate of Rs. 6,000/- is excessive.

4. In response to a query made by this Court, learned counsel for the petitioner has submitted that the said document was not available till the date of passing of the order by the Court below.

5. In my view, on the basis of a document, which is being relied on in the present criminal revision application for the first time, the order impugned cannot be interfered with. Further, there is provision under Section 127 of the Code of Criminal Procedure, 1973 for alteration of the maintenance amount, which can be availed of by the petitioner.

6. The order impugned, in the facts and circumstances of the case, does not require interference at this stage by this Court.

7. This application is, accordingly, dismissed.

8. It is, however, observed that the petitioner shall have the liberty to take recourse to Section 127 of the Code of Criminal Procedure by filing appropriate application with documents and



evidence before the Court below.

9. It is made clear that I have not gone into the merits of the dispute raised on behalf of the petitioner in the present proceeding and this order should not cause any prejudice to the claim of the parties in any proceeding.

(Chakradhari Sharan Singh, J)

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