

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.121 of 2016

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Amresh Kumar @ Shiv Bhajan Thakur Son of late
Tapeshwar Thakur Resident of Village -Bara Nathu, Police
Station Rampur Chauram District Arwal.

.... Petitioner/s

Versus

1. The State of Bihar
 2. Sunita Devi W/o Amresh kumar@Shiv Bhajan Thakur
 3. Neelm kumari S/o Amresh kumar@Shiv Bhajan Thakur.
- Both above Serial No. 2 to 3 are Resident of Village- Bara
Nathu, Police Station -Rampur Chauram, District
Jehanabad. Presently Resident of Village Kinjar Post
office and P.S Kinjar District Arwal.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar

For the Respondent/s : Mr. Vinod Shankar Modi (App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 27-03-2018 The petitioner feels aggrieved by the final order dated
26.11.2015 passed by learned Principal Judge, Family Court,
Jehanabad in Maintenance Case No. 14 of 2014 whereby he
has been directed to pay to O.P. Nos. 2 and 3, who are his
wife and daughter respectively, an amount of Rs. 10,000/-
per month towards their maintenance.

Learned counsel for the petitioner has submitted that
the family Court, despite being made known to the fact that
petitioner earns a salary of Rs. 16,000/- per month and has
other responsibilities also, has fixed Rs. 10,000/- as monthly
maintenance for O.P. Nos. 2 and 3.



That apart, it has been submitted that the Court below did not consider in correct prospective the fact that the petitioner was ready and had been maintaining O.P. Nos. 2 and 3 at his place of posting but without any explicable reason, in his absence, O.P. No. 2 left the matrimonial home with O.P. No. 3 and is now not ready to restore the matrimonial obligations. Though a divorce case also has been filed by the petitioner but prior to that, a petition had been filed by him under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The divorce petition has now been dismissed but the petitioner has not chosen to challenge the aforesaid order.

Learned counsel for the petitioner therefore submits that this is an evidence to indicate that the petitioner is even today desirous of restoring the matrimonial relationship with O.P. No. 2.

Learned counsel appearing for O.P. Nos. 2 and 3, however has submitted that after a compromise was effected between the parties, O.P. Nos. 2 and 3 went to reside with the petitioner but within six months, both, the mother and daughter were driven out from the matrimonial house and till date they are not being maintained properly. If, it has been argued, the petitioner has been really interested in restoring the conjugal life, he would not have filed the divorce case in the first instance. Such request for restoring the matrimonial



obligation is only to beguile the O.P. No. 2 into believing the petitioner. The O.P. No. 3, it has been submitted, has passed the matriculation examination and because of paucity of funds, she is not able to continue her studies.

From the perusal of the final order, it appears that the Court below did not agree to the submissions made on behalf of the opposite parties that the petitioner earns good amount per annum from his agricultural operation. As such, his income was assessed by the Family Court to be the amount of salary which he receives.

After going through the entire materials on record, this Court is of the view that the petitioner has other commitments in life viz. maintaining his brother, who is solely dependent on him and other family members.

Taking the aforesaid fact into account, this Court is of the view that the amount of monthly maintenance fixed by the Family Court be reduced to Rs. 8000/- per month from the Month of January, 2018.

The order passed by the Family Court which has been impugned in the present petition is modified to the extent that now the petitioner would be required to pay a monthly sum of Rs. 8000/- per month to the O.P. Nos. 2 and 3 from January, 2018. The other stipulations of the period during which such money is to be paid would remain inviolate.

So far as arrears of maintenance amount is



concerned, the same shall be cleared within a period of five months from today.

The order dated 26.11.2015 passed by the learned Principal Judge, Family Court, Jehanabad in Maintenance Case No. 14 of 2014 is modified to the extent indicated above.

With the aforesaid modification, the present revision petition is disposed of.

(Ashutosh Kumar, J)

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