

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.434 of 2016

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Awadhesh Kumar Sahni, S/o Nantun Sahni, resident of
Village- Sanathi Dih, P.S.- Bochaha, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sanju Devi, W/o Awadhesh Kumar Sahni, D/o Gajendra Sahni, resident of Village- Sanathi Dih, P.S.- Bachaha, District- Muzaffarpur, at present resident of Vihayi Chapra, P.S.- Ahiyapur, Distt.- Muzaffarpur.

.... Opposite Party/s

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Appearance :

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

For the O.P. No. 2 : Mr. Sanjay Kr. @ S.K., Adv.

For the State : Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 03-08-2018 Heard the learned counsel for the petitioner, the
opposite party No.2/informant and the State.

The petitioner is aggrieved by the final order dated 09.01.2014, passed by the learned Principal Judge, Family Court, Muzaffarpur in Maintenance Case No. 168 of 2011, whereby he has been directed to pay Rs. 2,500/- per month to opposite party No. 2 and Rs. 2,000/- per month



to the minor daughter of opposite party No. 2, for their maintenance.

A stand was taken in the beginning that the petitioner is ready to bring back opposite party No. 2 to her matrimonial home. On the basis of the aforesaid statement made by the learned Advocate appearing for the petitioner, notice was issued to opposite party No. 2, pursuant to which, she has appeared through a counsel.

It has been submitted on behalf of the opposite party No. 2 that after she was deserted by the petitioner, the petitioner has remarried and is having children with his second wife.

The petitioner, even today, asserts that he is ready and willing to take his wife to his home.

Such an offer, in the opinion of this Court, is not worth accepting because the opposite party No. 2 has a definite/plausible reason for refusing to accept such an offer. The other ground for assailing the order impugned is that the same has been passed *ex-parte*.

The learned counsel for the opposite party No. 2 has submitted that despite the petitioner having full knowledge of the proceedings under Section 125 the Code of Criminal Procedure, 1973 before the Family Court,



deliberately he chose not to appear. The reason assigned by the petitioner for his non-appearance in the proceedings is that he was in custody in connection with a case lodged by the opposite party No. 2, is also found to be incorrect. The petitioner was convicted almost after two years of the proceedings before the Family Court were completed.

Considering the aforesaid facts, the grounds taken by the petitioner do not appear to be tenable.

The learned counsel for the petitioner, however, has submitted that the court below could not be made aware of the financial strength of the petitioner. The petitioner is in seasonal employment and does not have a regular means of income.

However, considering the facts and circumstances of the case, the status of the parties as also taking into account that the petitioner was convicted and remained in jail for quite some time in the case lodged by the opposite party No. 2, this Court is of the view that the final order dated 09.01.2014, be modified to the extent that the petitioner be asked to pay an amount of Rs. 3,500/- per month, in all, towards maintenance of opposite party No. 2 and the minor daughter. The aforesaid modification in the order would be reckoned from the date of passing of the



final order.

Ordered accordingly.

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

(Ashutosh Kumar, J)

Praveen-II/-

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