

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.344 of 2015

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Aditya Chandel, Son of Hari Narain Prasad, Resident of
Village Pokhar Japla, P.S.- Japla, District- Palamu
(Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pinki Devi, Daughter of Vijay Kumar Singh, Resudent of
Village- Kataiya, P.S.- Deo, District- Aurangabad (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Respondent/s : Mr. Uma Nath Mishra(App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 09-03-2018 The petitioner has challenged the final order dated 26.07.2017 passed by the learned Principal Judge, Family Court, Aurangabad in Maintenance Case No. 7 of 2011 whereby he has been directed to pay to the opposite party No. 2 an amount of Rs. 5000/- per month.

Be it noted that the aforesaid amount was earlier reduced to Rs. 3000/- per month during the pendency of the present petition by order dated 02.07.2015.

From the perusal of the order impugned, it appears that the Family Court though took note of the fact that opposite party No. 2 was entitled to be maintained as she had been separated from her husband but the assessment of the income of the petitioner has not been done



in a proper manner. The entitlement of maintenance to opposite party No. 2 has been assessed by the Family Court on the basis of the admission of the petitioner and the evidence on her behalf that she had stayed separately for about two and half years, when the petitioner had filed a divorce case in Daltenganj.

Learned counsel for the petitioner has submitted that merely because, in the first instance, the petitioner had filed a divorce case against his wife/opposite party No. 2, that by itself was not good enough ground for the Principal Judge, Family Court to have come to the conclusion that the petitioner only had deserted his wife/opposite party No. 2. In fact, the evidence on behalf of the petitioner is that the opposite party No. 2 refused to come to her matrimonial home and, therefore, the petitioner was forced to file the divorce case.

Learned counsel for the petitioner has submitted that despite the fact that there was a clear averment on behalf of the petitioner that the petitioner had only been working as Sales Representative in an Engineering College and earning Rs. 5000/- per month, he has been slapped with a maintenance amount of Rs. 5000/- per month.

This Court has noticed that since 02.07.2015 the petitioner has been paying Rs. 3000/- per month to



opposite party No. 2 without default which fact has not been disputed by the learned counsel appearing for the opposite party No. 2.

Considering the entire circumstances in a holistic manner, this Court is of the view that the quantum of maintenance is required to be reduced to Rs. 4000/- from Rs. 5000/- as directed by the Family Court.

Henceforth, i.e. from the month of March, 2018, the petitioner shall pay to the opposite party No. 2 an amount of Rs. 4000/- regularly without default and in the event of his failure to do so, it will be open for the opposite party No. 2 to approach the Family Court for any coercive action.

It is needless to state that if there is a change in the circumstances, either of the parties would have liberty to approach the Family Court for modification of the order.

With the aforesaid observations and directions, the revision petition is disposed of.

(Ashutosh Kumar, J)

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