

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.92 of 2016

=====

1. Amarnath @ Sonu Kumar son of Vishnu Ram resident of village- Quarter No. 2196 Sector 6 C Bokaro Steel City P.O. and P.S. Bokaro, District- Bokaro (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Soni Kumar wife of Amarnath @ Sonu Kumar resident of village- Quarter No. 2196 Sector 6 C Bokaro Steel City P.O. and P.S. Bokaro, District- Bokaro Jharkhand

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Leelawati Kumari
For the Respondent/s : Mr. Raj Ballabh Singh (App)

=====

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

13 07-09-2018

Heard the parties.

The present Criminal Revision application under Section 397 read with Section 401 of the Code of Criminal Procedure (Cr.P.C.) has been filed against the order dated 15.07.2015, passed by the Principal Judge, Family Court, Aurangabad in Maintenance Case No. 67 of 2015, whereby, the petitioner was directed to pay Rs. 10,000/- (Rs. Ten Thousand) to the opposite party no. 2 as maintenance, from the date of filing of the case.

From perusal of the record, it appears that much time has expired in negotiation between the parties so that the final settlement could be reached between the parties. Earlier vide order



dated, 24.08.2018 passed by a coordinate Bench of this Court, the case was adjourned at the instance of learned counsel for revisionist – petitioner to enable the revisionist – petitioner to file an affidavit detailing the assets and liabilities and take home salary of the petitioner and a copy of the same was directed to be served on learned counsel for opposite party no. 2.

The supplementary affidavit has been filed, from which it appears that the gross salary of the revisionist – petitioner in the month of August is Rs. 56572.97/- and his take home salary is Rs. 43,875.48. Out of which, he has to pay an Equated Monthly Installment of Rs. 25,880/- for a loan of Rs. 7,20,243.00 towards Education Loan, Personal Loan, Festival Advance, Staff Demand Loan and Car Loan.

It has been submitted by learned counsel for the revisionist – petitioner that the order has been passed by the learned Principal Judge, Family Court, Aurangabad without affording an opportunity to the petitioner of being heard and petitioner is not in a position to pay such a huge amount each month to opposite party no. 2 as his net salary is Rs. 43, 875/- only out of which, he also has to pay the installments of certain loans and has to look after his parents.

On the other hand, learned counsel for opposite



party no. 2 has submitted that the maintenance amount of Rs. 10,000/- fixed by the Principal Judge, Family Court, Aurangabad is just and proper as the petitioner has sufficient means to pay Rs. 10,000/- to opposite party no. 2 each month as maintenance, whereas, the opposite party no. 2 has no means to look after herself and the children. Further submission is that beside the salary income, the petitioner also has the rental income of Rs. 15,000/- each month and further he has 10 bighas of agricultural land. However, learned counsel for the opposite party no. 2 has failed to produce any papers in support of his averments.

Having considered the submissions advanced on behalf of the parties. It appears that the petitioner has an income of Rs. 43,875.48/- out of which, he has to pay installments of loan but from perusal of the statement, it appears that those loans are with respect to Personal Loan, Education Loan, Festival Advance, Staff Demand Loan and Car Loan and all these loans cannot be considered as mandatory loans, however, there is one loan i.e. Education Loan for which, the petitioner pays an equated monthly installment of Rs. 5,980/- and after deduction of the same from the net income of the petitioner, it comes to Rs. 37, 895/-. It is also considered that petitioner has to look after himself and father and mother and in these circumstances opposite party no. 2 is at least



entitled to get one fourth of the amount of Rs. 37,895/-, which comes to about Rs. 9473.75 and rounded of to Rs. 9,000/- each month. Accordingly, the maintenance amount of Rs. 10,000/- as fixed by the learned Principal Judge, Family Court, Aurangabad is modified extent of Rs. 9,000/- , which has to be deposited by the petitioner in the account of the opposite party no. 2, bearing Account No. 0640000100285767, maintained with Punjab National Bank, Aurangabad by the 15th day of each month

With the above modification in maintenance amount, this revision application is dismissed.

(Vinod Kumar Sinha, J)

sunil/-

U		T	
---	--	---	--

