

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.224 of 2016

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Sunita Singh wife of Rajeev Kumar Singh, resident of V/O Santi Singh,
Narayan House, M. Mandal Compound, Boring Road, P.s.-S.K. Puri,
District Patna

.... Petitioner/s

Versus

State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Parijat Saurav

For the O.P.No.2 : Mr. Ansul

Ms.Sagarika Vidyarthi

For the Respondent/s : Mr. Abhay Kr.Roy(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

7 10-09-2018 The petitioner, who is the wife, has preferred this revision application against the order dated 29.08.2015 passed in Maintenance Case No.204(M) of 2008 by which the petitioner was granted maintenance of Rs.6,000/- and Rs.3,000/- to her daughter as such total 9,000/- payable to the petitioner as maintenance allowance.

Being aggrieved by the order, the present revision application has been filed stating that the petitioner had earlier filed a case for restitution of conjugal right and in that case there is finding that the opposite party no.2 deserted her.

It has been submitted that the petitioner is an Ex-Army Officer and he receives Rs.20,000-25,000/- as pension and apart from that he gets Rs.50,000/- from the private job as such the



petitioner has sufficient means to give maintenance to her but in spite of that he gives only Rs.9,000/- was allowed as maintenance allowance to the petitioner and her daughter, which is not sufficient and against the material available on record.

Further ground for challenge is that the maintenance was allowed from the date of order rather it should be from the date of application.

In this case O.P.no.2 appeared but he did not choose to file counter affidavit in spite of time granted to him.

Petitioner has also brought on record the recent pensionary certificate from which it appears that he has income of Rs.6,77,025/- per annum from the pension and he has also income of Rs.5,27,625/- from private job, as such his gross total income is Rs.12,37,585/- per annum. It has also been submitted that the petitioner has filed a petition before the learned court below also but the same has not been considered and only the amount of Rs.9,000/- has been given as maintenance, which is low and it is not as per the status of her husband which he is enjoying and for which she is entitled, as such prayed for enhancement in the maintenance amount.

Heard learned counsel for the A.P.P and the learned counsel for the O.P.no.2 They have opposed the prayer on the



ground that the petitioner has invested amount in some schemes and due to that he is in financial loss and apart from that he is paying for education to his son also, which will appear from page 46 and other pages, which are Bank Accounts, which are the papers of the petitioner supplied by herself.

In this case on perusal of the impugned order and also from perusal of Annexure-1 which is judgment passed in a petition under Section 9 of the Hindu Marriage Act that the petitioner was deserted by O.P.no.2 and evidence further shows that petitioner has no means to maintain herself and whereas the petitioner is getting pension as well as salary from the private job. Now doubt the impugned order shows that he is getting pension of Rs.20,000-25,000/- per month and he earns Rs.50,000/- from the private job, but present total income of opposite party –husband is Rs.12,37,995/- per annum i.e. approx. 01 lakh per month. It further appears that the petitioner is the wife of a retired Army Officer and the amount which is given to the petitioner appears to be not justifiable, considering status of the opposite party

In view of the facts and circumstances of the case, as the petitioner is the wife and she is entitled at least 1/4th of the salary of the O.P.no.2 from the salary as well as from the pension and in such view of the matter, the petitioner is entitled for at least



Rs.25,000/- per month for herself and for her daughter also.

In such view of the matter, the amount is enhanced from Rs.9,000/- per month to the petitioner and her daughter to Rs.25,000/- per month and so far submission of the learned counsel for the petitioner is that it should be payable from the date of application is concerned, generally the orders are passed from the date of order as such I am not inclined to interfere with that part of the order and the aforesaid amount shall be payable to the petitioner on 15th day of each month and from the date of order.

The aforesaid order shall not be bar in filing of the petition under Section 127 of the Cr.P.C. by any of the parties.

With the aforesaid modification, this revision application is disposed of.

(Vinod Kumar Sinha, J)

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