

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.123 of 2018

Arising Out of PS. Case No.-27 Year-2007 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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Shailendra Kumar S/o Akhilesh Kumar, R/o Mohalla- East Ashok Nagar,
Road No.12, Kankarbagh, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Swati Kumari W/o Shailendra Kumar D/o Sri Ghanshyam Prasad, R/o Mohalla- Prasad Bigha, P.S.- Nawada, District- Nawada, At present residing at C/o Gaurav Kumar, Quarter No. 23/504 Vasant Vihar, P.S.&Distt. Thane, Maharashtra, Pin No-400610.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lilawati Singh
For the Respondent/s	:	Mr. Sri Damodar Prasad Tiwary

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

8 03-08-2018 The petitioner/husband, by way of the present petition, has challenged the final order dated 05.01.2018 passed by the learned Principal Judge, Family Court, Nawada in connection with Maintenance Case No. 27 of 2007 whereby the petitioner has been directed to pay 25% of his monthly salary without any deductions from the month of January 2018 to the opposite party no. 2.

The aforesaid order was challenged primarily on the ground that fixation of such quantum of maintenance was absolutely lopsided in as much as the court did not take into account the actual take home money of the petitioner and his requirements in life. Apart from this, it



was argued that the petitioner, as always, is ready to bring back the opposite party no. 2/wife to her matrimonial home and accord to her all privileges and facilities to which she is entitled.

Learned counsel for the petitioner has fairly stated that the gross salary of the petitioner is around Rs. 64,000/- but after deductions, the take home amount is around Rs. 55,000/-. On such submission made on behalf of the petitioner, the opposite party no. 2 was noticed and the parties were asked to make it convenient to present themselves before this Court.

This Court has interacted with the petitioner as well as opposite party no. 2. During interaction, the spouses threw litany of charges against each other. It would not be necessary for this Court to go into the details of the dispute between them. What is worth recording is that Swati Kumari/opposite party no. 2 initially approached this Court with a categorical statement that she is willing to go and join the petitioner as his legally wedded wife. The petitioner on the other hand has expressed some reservations, though, he did not seem totally averse to the idea of restoration of conjugal rights. He stated before the Court that in the past also, with the intervention of the courts, he had made attempts to restore the matrimonial relationship



but, for no apparent reason, the opposite party no. 2 played a truant and came out of the matrimonial home. Under such circumstances, the petitioner showed some reluctance about again giving it a try.

Before disposing of this petition, this Court made the parties understand that in no way can the petitioner eschew from maintaining opposite party no. 2 and the child born out of the wedlock. The opposite party no. 2 was also made to understand that in the event that restoration of conjugal rights was not possible, the only way in which opposite party no. 2 could be prevented from sliding into a life of destitution/vagrancy, she would be paid the maintenance amount. This Court has come to know that the petitioner is a Senior Assistant in bank whereas opposite party no. 2 does not have a job but is reasonably qualified.

In any view of the matter, after some deliberations in the open Court, the parties and their advocates agreed to the following:

(i). The petitioner shall pay an amount of Rs. 14000/- per month (Rs. 8000/- for the opposite party no. 2 and Rs. 6000/- for the child) from the month of January 2018.

(ii). The opposite party no. 2 shall



not prevent the petitioner from meeting the child at least four times a year.

(iii). The petitioner shall not make any attempts to distance the child from her mother.

(iv). The parties shall not agitate before any other forum on the issue of maintenance,

(v). The amount of Rs. 14,000/- shall be towards full satisfaction of opposite party no. 2 regarding her matrimonial claims provisionally.

The aforesaid maintenance is subject to any permanent alimony awarded by any competent court of law if divorce takes place. The payment of the aforesaid stipulated amount (Rs. 14,000/-) shall be made promptly by the petitioner, preferably within the first seven days of every month.

The mode of payment shall be through bank; for which the opposite party no. 2 shall furnish her bank account number in which the amount shall be credited every month by the petitioner.

The petitioner shall be informed about the place of residence of opposite party no. 2 and the child and any change of address shall be communicated to the



petitioner forthwith.

With the aforesaid consented arrangement/order referred to above, the final order dated 05.01.2018 passed by the learned Principal Judge, Family Court, Nawada is accordingly modified i.e. in terms of what has been stated above.

The arrears of the amount, calculated from the month of January 2018 shall be paid to opposite party no. 2 in four equal installments within a period of four months. The payment shall be made up-to-date however, from the month of August 2018.

Any other arrears pursuant to any order passed by the competent court shall be paid to the opposite party no. 2 within a period of six months from today.

With the aforesaid observation/direction, the revision petition is disposed off.

(Ashutosh Kumar, J)

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