

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 337 of 2018

Arising Out of Maintenance Case No.- 119M Year-2016 Thana- Sadar District- Begusarai

Ranjan Kumar Son of Ganga Prasad Sah @ Ganga Prasad, resident of Mohalla- Mangal Vihar Colony, Tiril Road, Kokar, P.S.- Sadar, District- Ranchi, (Jharkhand).

... .. Petitioner/s

Versus

1. Priti Kumari, Wife of Ranjan Kumar, Daughter of Rajendra Prasad Sah.
2. Prince Raj, minor Son of Ranjan Kumar through his guardian and Mother, Priti Kumari, W/o Ranjan Kumar, D/o- Rajendra Prasad Sah, Both resident of Mohalla- Power House Road, Gachi Tola, P.S. Town, District- Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Mr. Rahul Pandey and Mr. Ranjeet Kumar Mishra, Advocate
For the Opposite Party/s	:	Mr. Jai Prakash Singh and Mr. Pankaj Kumar Singh, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 18-07-2019

Heard learned counsel for the petitioner and learned counsel for the opposite parties.

2. The petitioner has moved the Court under Section 19(4) of the Family Courts Act, 1984 being aggrieved by the judgment and order dated 12.01.2018 passed by the Principal Judge, Family Court, Begusarai in Maintenance Case No. 119-M of 2016, filed by the opposite parties, who are wife and son of the petitioner, by which the petitioner has been directed to pay Rs. 15,000/- per month as maintenance.



3. Learned counsel for the petitioner submitted that the order impugned suffers from glaring irregularities. It was submitted that sufficient opportunity of contesting the case has not been provided to the petitioner. In support of such contention, learned counsel drew the attention of the Court to paragraph 2 of the impugned order in which it had been noted that the petitioner had appeared on 12.09.2017 and then it was further noted that till 21.12.2017, there was no response from the petitioner and he was debarred from contesting the case on 31.12.2017. It was submitted that thereafter final order has been passed on 12.01.2018. Learned counsel further submitted that there has been no discussion in the order with regard to the opposite party no. 1 not being able to maintain herself or her son i.e., opposite party no. 2 and without such finding, award of maintenance is legally unsustainable.

4. Learned counsel for the opposite parties submitted that after marriage, the petitioner had taken the opposite party no.1 to the matrimonial home at Ranchi but after the birth of the opposite party no. 2, he and his mother started demanding dowry and had also attempted to kill her by poisoning due to which she was admitted in hospital at Ranchi and the brother of the opposite party no. 1 had come to Ranchi, cleared the hospital bill and then had brought her to her parents' place. Learned counsel submitted



that the petitioner is solvent, both by income from his monthly earning as well as from the landed property.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application.

6. The contention raised on behalf of the petitioner that sufficient opportunity has not been provided to him is noted for the sake of rejecting the same. From the Lower Courts Records, which have been received, the order sheet clearly discloses that initially when notice had been served on the petitioner and still he did not appear before the Court, the case was directed to proceed *ex parte* by order dated 06.09.2017. Thereafter, when the petitioner appeared on 12.09.2017 and desired to contest the case, the case was fixed for 20.09.2017, 13.10.2017, 13.11.2017, 21.11.2017, 28.11.2017, 05.12.2017, 16.12.2017 and only thereafter on 21.12.2017, when he took no steps, the petitioner was debarred from contesting the case. The Court would note the submissions of learned counsel for the petitioner at this stage, as has also been stated in the application at paragraph no. 11, that on 28.11.2017, an application with medical certificate was filed. The same is of no help to the petitioner for the reason that on 28.11.2017, the order sheet records that taking into consideration



such medical certificate, the next date was fixed for 05.12.2017 and thereafter, the matter was again fixed for 16.12.2017, 03.01.2018, 08.01.2018, 10.01.2018 and finally on 12.01.2018, the order has been passed.

7. Coming to the next contention of learned counsel for the petitioner that there is no finding recorded with regard to the opposite parties not being capable of sustaining themselves or not having any source of livelihood, the Court would only note that the impugned order itself at paragraph no. 3 records that the witnesses PW 1 (opposite party no. 2), PW 2 being brother of opposite party no.1 and PW 3 being her father, were examined. The Court had also mentioned that all the three witnesses have narrated the same facts in their examination-in-chief as narrated in the maintenance application. The same being matter of record and before the Court, this Court has also gone through the same. Perusal of the same discloses that specific averment has been made in the petition itself that the opposite party no. 1 was residing at Begusarai and leading a miserable life and she was unemployed having no means of earning. The same has been stated by all the three witnesses in their examination-in-chief before the Court. Thus, the Court below was not required to verbatim reproduce what was already on record by way of such



depositions, and stating in the order that the facts were narrated in the maintenance application and the examination-in-chief of the witnesses, was adequate. This, in the considered opinion of the Court is sufficient to indicate that the Court had applied its mind and considered the evidence/deposition/statements and in the face of there being no controversion or rebuttal, it has rightly relied upon them and proceeded to pass the order. Further, the Court would note that at no point of time any application was filed on behalf of the petitioner for either cross-examination of the witnesses or for recall of the order dated 31.12.2017. In any view of the matter, from 12.09.2017, when the petitioner appeared before the Court till 21.12.2017, when he was debarred from contesting the case, eight dates were fixed in the case between the said period. The Court would only note here that in the order at paragraph no. 2, the date mentioned on which the petitioner was debarred from contesting the case has been typed as 31.12.2017, which appears to be a typographical error as from the order sheet, it appears that the said date was 21.12.2017.

8. The Court would further note that nowhere has it been stated or denied in the petition that the petitioner has no landed property, including house at Ranchi or that he does not earn Rs. 45,000/- per month being employed in Hindalco at



Ranchi. Thus, there is no contest with regard to the quantum on the ground that he does not earn sufficiently to be able to pay the amount.

9. In the aforesaid background, the Court does not find any flaw in the order of the Court below awarding Rs. 15,000/- per month maintenance in favour of the opposite parties. Such amount, in the considered opinion of the Court is both reasonable and justified in the facts and circumstances of the present case.

10. For reasons aforesaid, the application stands dismissed.

11. Consequent upon the dismissal of the present application, the authorities at Hindalco are directed to compute the arrears which are to be paid in terms of the original order of the Principal Judge, Family Court, Begusarai and the same shall be deposited directly in the Court below itself. The arrears would also be for the period for which the petitioner was paying only Rs. 10,000/- in terms of the interim order of the Court.

12. The Court would only clarify that with regard to the arrears for the past period also, the authorities of Hindalco will credit Rs. 25,000/- per month till the dues are made up-to-date and thereafter, a sum of Rs. 15,000/- shall be deposited in the Court below per month.



13. Learned counsel for the opposite party undertakes to communicate the order to the authorities of Hindalco at Ranchi for compliance.

14. The Lower Court Records be returned forthwith.

(Ahsanuddin Amanullah, J.)

P. Kumar

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