

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1224 of 2016

Arising Out of PS. Case No.- Year-1111 Thana- District-

Yogendra Prasad Singh Son Of Late Rameshwar Prasad Singh, Resident Of
Village- Shivanthpur, P.S.- Bibhutipur, District- Samastipur Bihar.

... .. Petitioner

Versus

1. The State Of Bihar
2. Mamta Devi Wife Of Yogendra Prasad Singh And Daughter Of Nebi Mahto.
Resident Of Village- Bulakipur, P.S.- Dalsingsarai, District- Samastipur
Bihar.

... .. Opp. Parties

Appearance :

For the Petitioner/s	:	Mr.Vinay Kumar Mishra,Adv.
For the Opp. Parties	:	Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 17-12-2019

Heard learned counsel for the petitioner and learned
APP for the State.

The instant petition, under Section 19(4) of the Family Courts Act, has been directed against the order dated 02.09.2016, passed by learned Principal Judge, Family Court, Samastipur, in Maintenance Case No. 144 of 2013, whereby and whereunder, the petitioner has been directed to pay Rs. 3,000/-(Three Thousand) per month to the opposite party No.2/wife and Rs. 1,500/- (One Thousand Five Hundred) each for his minor children, namely, Brajesh Kumar and Chanchal Kumari by 10th of every month.



It is submitted by the petitioner's counsel that he is a labourer and has no income and, therefore, the order passed by the Principal Judge, family Court, Samastipur, U/s 125 of the Cr. P.C. whereby Rs. 3,000/- per month in favour of his wife/opposite party No.2 and Rs. 1,500/- each for his minor children, namely, Brajesh Kumar and Chanchal Kumari, is unsustainable. The order passed by the Principal Judge, family Court, Samastipur, has taken into consideration the entire background of the dispute/s pending between the parties and the allegations levelled by the petitioner of Maintenance case No. 144 of 2013. The order takes note of fact that the various cases have been filed against the petitioner by his wife and also that the petitioner has lodged cases against his wife. During the course of proceedings, the petitioner also sought to take a plea that the wife had solemnized a second marriage. In support of which, he filed some documents. The *Mukhiya* of Bulakipur, viz. Mukesh Karn, has submitted a certificate in the Court that the petitioner was, in fact, residing in her maternal home. The Court below has also taken note of the fact that the marriage and children arising out of wedlock



are facts admitted by the petitioner. It is also admitted that the petitioner is residing separate from his wife since September 2013. He has not paid any maintenance whatsoever. So far as the income of the petitioner is concerned, the Court has taken into consideration that the petitioner has chosen not to say anything about the yearly income although he is an agriculturist and has accepted to be in possession of *Bighas* of land and some land has also been taken on *Battai*. The Court has also assessed that in view of the various pending disputes between the parties, the wife of the petitioner would be incurring an expenditure of at least Rs. 500/- in respect of the various litigations between the parties.

Considering the aforesaid submissions, the Court of Principal Judge, family Court, Samastipur, has fixed the maintenance at the rate of Rs. 3,000/- per month in favour of the wife/opposite party no.2 and Rs. 1,500/- in favour of each children, namely, Brajesh Kumar and Chanchal Kumari. The determination made by the Court is not assailed on any grounds, which requires any consideration merely by submitting that the petitioner is a labourer and



incapable of paying the amounts. The order passed by the Principal Judge, Family Court, Samastipur, after discussing all the details, taken note of hereinabove, cannot be interfered with. This Court finds no infirmity with the order dated 02.09.2016 passed by the learned Principal Judge, Family Court, Samastipur, in Maintenance Case No. 144 of 2013.

The application is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.12.2019
Transmission Date	19.12.2019

