

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.801 of 2016

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

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Kala Devi, W/o Binod raut Resident of Mohalla- Lalu Pokhar, P.S.- Kasim
Bazar, District- Monghyr

... .. Petitioner

Versus

Binod Raut, S/o Late Tunna Raut, Resident of Mohalla- Bari Daryapur, P.S.-
Jamalpur, District- Monghyr

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 13-08-2019 This application has been filed against the order dated

30.6.2016 passed by learned Principal Judge, Family Court,
Munger, in Miscellaneous Case No. 62 of 2015, whereby and
whereunder the petition filed by the petitioner under Section
127(1) of the Code of Criminal Procedure for enhancement of
maintenance amount has been partly allowed.

The case of wife-petitioner, in short, is that she was
married with opposite party and she along with her children was
deserted by him, due to which she filed Maintenance Case No.
52(M) of 2011 before the Principal Judge, Family Court,
Munger for maintenance and the same was allowed by order
dated 11.4.2012 and petitioner was allowed maintenance of
Rs.1500/- per month. It appears that petitioner has filed Misc.



Case under Section 127(1) Cr.P.C. for enhancement of maintenance amount from Rs.1500/- to Rs.6000/- per month due to rising prices of commodities as well as due to increase of salary of opposite party-husband and learned Principal Judge after hearing the parties has enhanced the maintenance amount from Rs.1500/- to Rs.2000/- per month by the impugned order.

Being aggrieved by the impugned order, the present revision application has been filed by the petitioner-wife on the ground that petitioner was earlier getting Rs.1500/- per month as maintenance and impugned order shows that petitioner as per information supplied under R.T.I. has filed salary slip of opposite party-husband, which goes to show that he was getting Rs.14,044/- as gross salary and his net payment was Rs.13,744/- as on 13.7.2015 but in spite of that maintenance has only been increased from Rs.1500/- to Rs.2000/- by enhancing only Rs.500/- which is so meager according to the petitioner.

In this case earlier notice was issued to opposite party-husband and it appears that he has appeared by filing Vakalatnama in the year 2018 itself. However, none appears on behalf of opposite party.

From perusal of the impugned order it appears that salary slip of opposite party shows that he was getting net salary



of Rs.13,744/- per month but in spite of that maintenance of the petitioner has only been enhanced from Rs.1500/- to Rs.2000/- which appears to be not appropriate considering the status and salary of opposite party as it is settled principle of law that as per status and salary of husband, maintenance to wife should be fixed and even in some cases principle of 1/3rd of income and in some cases principle of 1/4th of income to be appropriate and considering the same the impugned order cannot be sustained in the eye of law.

Accordingly, the impugned order is set aside and learned Principal Judge, Family Court, Munger is directed to consider the matter afresh after hearing the parties and pass an appropriate order in accordance with law within a period of three months from the receipt of this order.

Hence, this application is allowed to the extent indicated above.

(Vinod Kumar Sinha, J)

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