

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.398 of 2016

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

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Gopal Prasad Sah, son of Barho Sah, resident of Mohalla - Champanagar,
Amir Mishra Lane, Post Office - Nathnagar, Police Station - Nathnagar,
District - Bhagalpur.

... .. Petitioner

Versus

1. The State Of Bihar
2. Shashi Devi, wife of Gopal Prasad Sah, daughter of Mahendra Sah
3. Rinku Kumari
4. Pinki Kumari, both daughters of Gopal Prasad Sah, all residents of Village -
Anandpur, Post Office - Anandpur, Police Station - Laxmipur, District -
Jamui.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Syed Masleh-Uddin Ashraf, Advocate
For the Respondent/s : Mr.R.P.S.Singh, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 01-07-2019 This revision application has been filed against the order dated 5.4.2014 passed by Shri Sunil Dutta Mishra, Principal Judge, Family Court, Jamui in Maintenance Case No. 115 M of 2012 directing payment of monthly maintenance of Rs.2000/- to opposite party No.2 and Rs.1000/- each to opposite party Nos. 3 and 4 till they were attaining majority.

The case giving rise to the revision application, in short, is that an application has been filed by opposite party No.2 for maintenance of Rs.15,000/- per month to her and her two daughters and on the basis of which Maintenance Case No. 115 M of 2012 was registered and notice was issued to the petitioner and it appears that he has not appeared, as such the maintenance case was proceeded ex



parte and by impugned order dated 5.4.2014 the maintenance case was allowed and petitioner was directed to pay Rs.2000/- per month to opposite party No.2 and Rs.1000/- per month each to opposite party Nos. 3 and 4, the daughters of opposite party No.2.

Being aggrieved by the impugned order the present revision application has been filed on the ground firstly that without proper service of notice the case has been fixed ex parte and the same has been decided against the petitioner and secondly that without having any document or substantive evidence of income of the petitioner the maintenance amount has been fixed at Rs.2000/- per month to opposite party No.2 and Rs.1000/- per month each to opposite party Nos. 3 and 4 and as such the order granting maintenance does not appear to be sustainable. In this connection, learned counsel for the petitioner has drawn my attention towards Annexure-2, which is order sheet of Principal Judge, Family Court in Maintenance Case No. 115 M of 2012, shows that registered notice was issued and without service of notice the case has been fixed ex parte. On the other hand, learned counsel for opposite party Nos. 2 to 4 has submitted that order dated 6.6.2013 of the learned Principal Judge clearly shows that process server reported that petitioner refused to receive the notice, as such petitioner has knowledge of the same but in spite of that he chose not to appear in the case.

So far ground taken by the petitioner that case has been fixed ex parte without service of valid notice does not appear to be



sustainable and so far second ground taken by the petitioner that without assessing income of the petitioner it was found that petitioner has income of Rs.30,000/- per month and maintenance amount of Rs.2000/- per month to opposite party No.2 and Rs.1000/- per month each to opposite party Nos. 3 and 4 is fixed. No doubt, there is no documentary evidence in support of the income of the petitioner and there is no finding of the Family Court as such, but petitioner is an earning person and according to petitioner, he is a labourer and, in such a situation, he considered to be daily earning even by daily wage, the amount of maintenance of Rs.2000/- to the wife and Rs.1000/- each to the two daughters per month does not appear to be excessive.

In view of above facts and circumstances, this revision application is dismissed.

(Vinod Kumar Sinha, J)

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