

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.814 of 2016**

Arising out of P.S. Case No.- Year-1111 Thana- District-

Vikash Kumar Yadav @ Vikash Kumar, Son of Baidyanath Yadav, resident of Village- Bishharia, P.O.- Anadpura, P. S.- Udakishun Ganj, District-Medhepura.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Poonam Kumari, Daughter of Srikant Yadav, resident of Village - Barahi, P.S.- UdakishunGanj District- Medhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Shankar Shrivastava, Advocate
For the Respondent/s	:	Mr. Sri Tarkeshwar Nath Thakur, APP

**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL JUDGMENT**

Date : 26-08-2019

1. This revision application has been filed by petitioner-husband against the order dated 22.12.2014 passed by the Principal Judge, Family Court, Madhepura, whereby and whereunder, the Principal Judge, Family Court, Madhepura, has directed the petitioner to pay Rs.3000/- per month to the opposite party no.2 from the date of the order passed in Misc. Case No. 101 of 2010.

2. On perusal of the record, it appears that there is fact of the case is peculiar in this case, as the applicant-opposite party no.2 has filed Maintenance Case No. 101 of 2010 against the husband-present petitioner for grant of maintenance and after adducing evidence and full argument, the order has been passed



granting maintenance of Rs.3000/- per month in favour of the opposite party no.2 against the petitioner, vide order dated 22.12.2014 passed in Misc. Case No. 101 of 2010 against which the petitioner has preferred a Criminal Revision No. 73 of 2015 and the above criminal revision was also dismissed by this Court, vide order dated 24.09.2015 passed in Criminal Misc. No. 73 of 2015. It appears that against that order, petitioner has preferred S.L.P. No. 476 of 2016, which was disposed of under misconception, vide order dated 27.01.2016 and it reads as follows:

“After hearing learned counsel for the parties for some time, we do not find any merit to interfere with the impugned judgment and order as it is an interlocutory order, in the facts and circumstances of the case, it would be just and proper for us to direct the family court to dispose of the matter on merit finally, within three months. Order accordingly.

The special leave petition is disposed of with the aforesaid direction.

Pending application (s), if any, stand (s) disposed of.”

3. In that view of this, *prima facie* appears that the Hon'ble Apex Court considering the application against the interim maintenance passed such an order.



4. The learned Family Court on receipt of the order, again passed an order granting maintenance of Rs.3000/- per month in favour of the opposite party no.2 against the petitioner.

5. The learned counsel for the petitioner has assailed the above order on the ground that is sufficient for declaring the marriage as nullity of the petitioner with opposite party no.2 is still pending in Matrimonial Case No. 126 of 2016 and that matter is still pending. Further, he has filed C.W.J.C. No.1297 of 2018 before this Court for expedite disposal of the above matrimonial case and in the case the same is decided in favour of the petitioner, it will make the order of maintenance illegal. Further, submission is that the maintenance amount is excessive.

6. The learned counsel appearing on behalf of the opposite party no.2, who has opposed the above submission on the ground that the maintenance order has already been passed by the learned court below, which has been affirmed by this Court, vide order dated 24.09.2015 passed in Criminal Misc. No. 73 of 2015 and so far as order of Hon'ble Apex Court is concerned, the same has been passed under misconception that the S.L.P. has been filed against the order of interim maintenance and the court below has again passed the order of maintenance of Rs.3000/- per month, as such, once the same has been upheld by



this Hon'ble Court, naturally, it is not open to this Court to modify order granting maintenance or to pass any other order.

7. Having heard both sides, in view of the facts and circumstances, as stated above, I find no merit in this application, accordingly, this revision application stands dismissed.

8. It is always open to the petitioner that once the matrimonial case, as mentioned above, is decided, he may approach before the learned Family Court under Section 127 of Cr.P.C for appropriate order.

sunilshukla/-

(Vinod Kumar Sinha, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	4.9.19
Transmission Date	4.9.19

