

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.848 of 2016**

Arising Out of PS. Case No.-1306 Year-2014 Thana- VAISALI COMPLAINT CASE
District- Vaishali

=====

Rajeev Kumar Thakur @ Rajeev Kumar, Son of late Dineshwar Thakur
Resident of Village- Barati, Police Station Rajapakar, District Vaishali.

... .. Petitioner

Versus

1. State Of Bihar
2. Smt. Chetna, Wife of Rajeev Thakur, Daughter of Madan Kumar Chaudhary
Resident of Patori, House No. 147 Police Station Bishunpur, District
Darbhanga.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Ojha, Advocate
For the Respondent/s	:	Mr.Akhileshwar Dayal, APP
For O.P. No.2	:	Mr. Alok Kumar Alok, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

7 05-09-2019 This revision application has been preferred against the order dated 12.7.2016 passed by learned Sessions Judge, Vaishali at Hajipur in Cr.Appeal No. 35 of 2016, which has been filed against the order dated 23.7.2015 passed by learned S.D.J.M, Vaishali at Hajipur under Domestic Violence Act directing the petitioner to provide at least one room in his accommodation to the opposite party No.2-complainant-wife additionally equipped with basic amenities like latrine, bathroom, kitchen and electricity and further directed to pay Rs.10,000/- to the opposite party No.2 on or before 15th of every month to meet her regular expenditure along with other



directions. However, learned appellate court though affirmed the order of learned Magistrate but modified the above order of S.D.J.M. to the extent that petitioner will pay monthly rent of Rs.15,000/- per month instead of providing her room in his accommodation, so that she is living separately, without any failure and so far other conditions imposed by learned court below is concerned, petitioner was given liberty to file an application before the court concerned within a week from that order with regard to maintenance amount and the court below was directed that after giving opportunity to both the parties and considering the facts and status of the parties to pass fresh order for her regular expenditure and the same will be payable by the petitioner from the date of impugned order dated 23.7.2015. So far condition (c) is concerned, learned appellate court refused to interfere with the above direction. Accordingly the appeal with the above modification was disposed of.

Petitioner-husband has filed the present revision application with respect to amount of rent fixed by the court is concerned as the same is disproportionate to the income of the petitioner and petitioner is already paying Rs.5000/- per month to her as per direction of Hon'ble High Court passed in Cr.Misc.No. 15675 of 2014 vide order dated 24.4.2014, as such



further amount to the tune of Rs. 15,000/- fixed by learned appellate court is also disproportionate to the income of the petitioner. The petitioner has also taken a plea that the firm of the petitioner, which was meant for running contract works, of which petitioner is Director, is not in good position and he has not been able to file the return also, as such he is unable to pay the amount of rent as well as the maintenance amount.

A submission has also been made by learned counsel for the petitioner that there are large number of litigations going on between the parties, including a complaint case under Section 498A IPC against the petitioners and others, a maintenance case brought by opposite party No.2, divorce case filed by the petitioner and a case under Domestic Violence Act filed by opposite party No.2 and petitioner also fed up with all the litigations and he wants to resolve the disputes through mediation with proposal for One Time Settlement and accordingly this Court vide order dated 15.5.2018 has asked both the parties to explore the possibility of one time settlement.

On the other hand, learned counsel for opposite party No.2 has submitted that there is no possibility at present of amicable settlement of the disputes between the parties. So far this revision application is concerned, it has been submitted on



behalf of opposite party No.2 that under the provisions of Section 19 of Domestic Violence Act opposite party No.2 is entitled to residential right apart from the expenses for maintenance. It has further been submitted that maintenance in Domestic Violence Act is complete separate proceeding other than Section 125 Cr.P.C. and the Magistrate may pass an order of maintenance under Domestic Violence Act also but while passing of an order the parties have to inform about any previous order with regard to maintenance and as such there is nothing illegal while passing the order by learned Magistrate granting maintenance of Rs.10,000/- apart from Rs.5000/- granted by this Court while disposing of the anticipatory bail application of the petitioner and learned Magistrate was in knowledge of the order passed by this Court in anticipatory bail application filed by the petitioner. It has also been submitted that so far the maintenance order is concerned, learned appellate court has already remanded the case and directed the petitioner to file an application before learned Magistrate with regard to maintenance amount and learned Magistrate was directed that after giving opportunity to both the parties, considering all the facts and status of both the parties and the amount which is continuously being paid by the petitioner in the light of direction



of this Court, he will pass fresh order for meeting regular expenses of opposite party No.2 and that order has not been challenged by opposite party No.2. It has further been submitted that the payment of Rs.15,000/- as a residential right for taking a house on rent also is not excessive and for the same she is entitled under the provisions of Section 19 of Domestic Violence Act.

Considering the submissions made above and on perusal of the judgment of appellate court as well as the order of learned Magistrate it appears that learned appellate court has already directed the petitioner to file an application so far the expenses of opposite party No.2 is concerned with certain directions and he has also not interfered with the direction (c) of learned Magistrate and the order of learned Magistrate was modified by learned appellate court only to the extent that instead of providing one room of his accommodation, including the basic amenities to the opposite party No.2 petitioner has to pay Rs.15,000/- per month with respect to rent, which according to petitioner is excessive considering his present financial position. However, even according to return filed by the petitioner for the financial year 2012-13 it appears that his income against around Rs.5,60,000/-, i.e., around Rs.46,000/- +.



Considering the same, it does not appear to be excessive as opposite party No.2 is also entitled to lead a life as per status and life style of the petitioner. It further appears that learned counsel for the petitioner is not much interested in assailing the above amount directed to be paid by him, rather considering a large number of litigations going on he is interested in one time settlement of all the disputes and he is ready to resolve the disputes and pay a handsome amount as one time settlement to opposite party No.2.

Learned counsel for opposite party No.2 though submitted that opposite party No.2 is not at present ready for one time settlement but it has been submitted that in future possibility of the same cannot be ruled out.

Considering the discussions made above, I find no illegality in the impugned judgment passed by learned Sessions Judge, Vaishali, as such the same is affirmed.

However, considering the proposal and several litigations going on between the parties, it is expected that opposite party No.2 and the petitioner may appear before the Principal Judge, Family Court, Patna in Matrimonial Suit No. 600 of 2013 for initiation of fresh reconciliation between the parties. If they appear, learned Principal Judge, Family Court,



Patna shall try for an amicable settlement between the parties either one time settlement or any other option which is open to him according to the stand taken by the parties.

The above observation may not be considered as direction of this Court, rather in view of submission of learned counsel for the petitioner, both the parties are given the option to avail the same in order to resolve the disputes.

Accordingly, this application is disposed of with the above observation.

(Vinod Kumar Sinha, J)

spal/-

U		T	
---	--	---	--

