

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.804 of 2016

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

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Guru Charan Ram, son of Late Ram Kishun Ram, Resident of Village- Moredehari, P.O. Parnawan, P.S.- Jamhore, District- Aurangabad. at present Residing in the House of Assistant Director of Animal Husbandar, Kukut Zone, Bokaro, P.S.- Sector-12 Bokaro Steel City, District- Bokaro Jharkhand.

... .. Petitioner

Versus

1. The State Of Bihar
2. Smt. Rita Devi, wife of Gurucharan Ram R/o Village- Mordihari, P.O. Parrawan, P.S. Jamhore, District- Aurangabad.
3. Ajit Kumar, son of Gurucharan Ram resident of Village- Moredehari, P.O. Parrawan, P.S. Jamhare, District- Aurangabad, Guardianship of Mother- Rita Devi.

... .. Respondents

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

7 20-08-2019 No one appears on behalf of the petitioner to press this application. On the last occasion also none had appeared on behalf of petitioner though learned counsel for opposite parties was present.

As the case is of the year 2016 this application is being disposed of on merit at the admission stage itself on perusal of materials available on the record.

This revision application is against the order dated 28.6.2016 passed by learned Principal Judge, Family Court, Aurangabad whereby and whereunder the Maintenance Case No. 62 of 2009 filed by opposite party No.2-wife was allowed



and petitioner was directed to pay Rs.8,000/- per month to opposite party Nos. 2 and 3.

Fact giving rise to this revision application, in short, is that opposite party No.2 has filed the maintenance case before the Principal Judge, Family Court, Aurangabad for grant of maintenance in which petitioner-husband has appeared and his case is that opposite party No.2 is a lady of questionable character and was never reside with the petitioner.

It further appears that learned Principal Judge, Family Court, Aurangabad has allowed the maintenance case filed by opposite party No.2 by the impugned order dated 28.6.2016 directing the petitioner to pay altogether Rs.8,000/- per month to opposite party Nos. 2 and 3.

Being aggrieved by the said order, the present revision application has been filed on the ground that witnesses have stated during course of evidence in court that opposite party No.2 is residing in the petitioner's house and as such she is not entitled to maintenance. Further case of the petitioner is that opposite party No.3, son of the petitioner, has become major and as such he is also not entitled to maintenance. Further ground for assailing the impugned order is that he is getting salary of Rs.10,000/- only per month and as such the award of



maintenance of Rs.8,000/- appears to be excessive.

None appears on behalf of the opposite parties also.

From perusal of the record it appears that opposite party No.2 has come with a case that she was married with the petitioner and petitioner was working in Animal Husbandry Department at Bokaro and a child was born from the wedlock in the year 1993. However, petitioner has brought a lady in the house and due to that she was subjected to cruelty and harassment, as such applicant opposite party No.2 along with her son (opposite party No.3) came in village Mordihari and informed her parents about the occurrence and still they are living in the said village. Further case of opposite party No.2 is that she has no source of income, whereas petitioner is earning Rs.15,000/- per month. It is also her case that her son is school going boy, as such she has claimed maintenance of Rs.5,000/- for herself and Rs.3,000/- for her child.

Petitioner has appeared in maintenance case and filed his show cause stating that applicant-opposite party No.2 has left her matrimonial house with one Amrendra Kumar without consent of petitioner and he is drawing only Rs.10,000/- per month as he is a Fourth Grade employee.

During trial six witnesses have been examined on



behalf of applicant, whereas four witnesses have been examined on behalf of petitioner but he did not get himself examined during trial. It further appears that the above fact is not denied by opposite party No.2 that he is working as fourth grade employee in Animal Husbandry Department since 1991.

The witnesses on behalf of applicant-opposite party No.2 have supported her case and their evidence further disclosed that petitioner has three brothers and there is 6 bighas of agricultural land in their joint possession. Evidence further disclosed that son of petitioner is suffering from Epilepsy and petitioner assaulted opposite party Nos. 2 and 3 and ousted them from the house. The evidence adduced on behalf of petitioner, including sister of the petitioner disclosed that applicant-opposite party No.2 took 1-1/2 bighas of agricultural land but this fact has not been supported by the petitioner in his show cause and OPW 4 has supported this fact in his evidence that applicant-opposite party No.2 was residing in her Maikie since 2009 and one Sangeeta Devi was residing with the petitioner as wife and she has one child also.

The above fact categorically disclosed that opposite party No.2 is legally wedded wife of the petitioner and opposite party No.3 is the son from their wedlock. It further appears that



petitioner has solemnized second marriage, as such it is valid reason for the applicant-opposite party No.2 to reside separately. It is also admitted fact that petitioner is a Government servant and he is working since 1991 and learned court below has assessed his monthly salary at Rs.25,000/- on the date of judgment. Petitioner has not got himself examined in this case and he may be best person to disclose his income and may produce salary slip and had be been examined, opposite party No.2 would have got a chance to cross-examine him also on the point of monthly income, as such certainly it shall cause adverse inference against him. It further appears that it is admitted case that opposite party No.3 is unsound mind, as such even if he has attained majority, as per Section 125(1)(c) Cr.P.C. he is entitled to maintenance and there is nothing available on the record that she has any source of income to maintain herself and her son and petitioner is a fourth grade Government employee and his monthly income has been assessed at Rs.25,000/-. Considering the above findings learned Family Court has directed the petitioner to pay altogether Rs.8,000/- per month as maintenance to opposite party Nos. 2 and 3.

Considering the observations made above, to my opinion, the impugned order does not suffer from any illegality



or impropriety or there is no any error apparent on the basis of the materials available on the record.

In such view of the matter, this application appears to be devoid of merit accordingly, dismissed.

(Vinod Kumar Sinha, J)

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