

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.803 of 2016**

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

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Pramod Yadav, S/o Kailash Yadav, Resident of Village- Dasua, Police Station- Belhar, District- Banka.

... .. Petitioner

Versus

1. State Of Bihar
2. Mala Devi @ Jay Mala Devi, W/o Pramod Yadav, Resident of Village- Dasua, P.S.- Belhar, Distt- Banka. at present D/o Chutar Yadav, resident of Village- Maidan, P.S.- Belhar, District- Banka.

... .. Respondent

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**Appearance :**

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|----------------------|---|-----------------------------|
| For the Petitioner/s | : | Mr.Ajay Mukherjee, Advocate |
| For the Respondent/s | : | None                        |

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

6      13-08-2019                      This revision application has been filed against the order dated 15.6.2016 passed by learned Principal Judge, Family Court, Banka in Misc. Case No. 08 of 2010, Trial No. 222 of 2016, whereby and whereunder the petitioner was directed to pay Rs.2000/- each to opposite party No.2 and her two children, total Rs.6000/- per month as their maintenance.

Case, in short, is that a maintenance case has been filed by opposite party No.2-wife against the petitioner-husband that her marriage was solemnized with the petitioner and two children were born out of the wedlock and further case is that she has been ousted from the house after assault. Her case is that her husband was earning Rs.10,000/- per month, apart from that he has 3 bighas of land and also he married with another lady Geeta Devi. Petitioner has not appeared in time, as such learned Family Court has proceeded ex



parte against him. However, petitioner has been given a chance to cross-examine the witnesses. Learned Family Court after conclusion of the proceeding allowed the maintenance case and directed the petitioner to pay Rs.2000/- each to opposite party No.2 and her two children by the impugned order.

Being aggrieved by the same, the present revision application has been filed on the ground that the amount of maintenance is excessive and learned court below has failed to consider the petitioner's remarriage with another lady and he has to look after the second wife and children born from the wedlock also and further on the ground that during pendency of this application the son of opposite party No.2 has become major and as such now he is not entitled to maintenance.

None appears for opposite party No.2.

From perusal of the record it appears that it is admitted case that petitioner has remarried with another lady and as such opposite party No.2 was residing separately and she has valid reason for the same. It further appears that petitioner has not brought any evidence on the record to show any income of opposite party No.2, whereas opposite party No.2 has come with a case that he is a Driver at Calcutta and is getting Rs.10,000/- per month. Apart from that he has 2-1/2 bighas of land and considering the same total maintenance amount of Rs.6000/- was allowed for opposite party No.2 and her two children. However, case of the petitioner is that he has second



wife and from whom he has children also and so far ancestral property is concerned, he has 2-1/2 bighas of land being joint property of him and his brothers and he is only entitled to 1/2 share of the same.

Considering the facts, as stated above, though it appears that petitioner has income of Rs.10,000/- per month apart from some property, as such the amount of maintenance does not appear to be excessive but so far second ground for assailing the impugned order is concerned, the son of opposite party No.2 has attained majority, the petitioner is at liberty to move before the Family Court by filing a petition under Section 127 Cr.P.C. in view of changed circumstances. If such an application is filed by the petitioner, the same shall be considered by learned Family Court after hearing the parties.

With the above observation, this application is dismissed with the above observation.

**(Vinod Kumar Sinha, J)**

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