

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 153 of 2018

Arising Out of Miscellaneous Case No.-101 Year-2014 Thana- District-

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Md. Shahid Aqubal Son of Abdul Quddus Mallick Resident of House no. 4,
Road No. 4, Chandni Chowk, Islamnagar, Chepapul, P.S. -Kapali, District-
Saraikela, Kharsawan, Jharkhand.

... .. Petitioner/s

Versus

1. Rahat Tabassum, Wife of Md. Shahid Iqbal.
2. Md. Akmal Akhtar Son of Md. Shahid Iqbal (Minor) under the guardianship
of mother Rahat Tabassum, Both resident of Village- Par Nawada, Mohalla
Takiya Par, P.S and District- Nawadah.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjesh Kumar Singh and Mr. Homa Yunus, Advocates
For the Opposite Party/s :		Mr. Gopal Prasad Roy, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 02-09-2019

Heard learned counsel for the petitioner and learned
counsel for the opposite parties.

2. The petitioner has moved the Court under Section
19(4) of the Family Courts Act, 1984, against the order dated
24.08.2016 passed by the Principal Judge, Family Court, Nawadah
in Miscellaneous Case No. 101 of 2014, filed by the opposite



party no. 1 granting Rs. 5,000/- maintenance per month in favour of the opposite party no. 1 and Rs. 5,000/- per month maintenance to the opposite party no. 2.

3. The petitioner is the husband and father of the opposite parties no. 1 and 2 respectively. When the opposite parties started living separately from the petitioner, Miscellaneous Case No. 101 of 2014 was filed by the opposite party no. 1, in which the impugned order has been passed.

4. Learned counsel for the petitioner submitted that the order is *ex parte* as he has not been heard in the matter. No other point was urged on behalf of the petitioner before the Court.

5. On the other hand, learned counsel for the opposite parties submitted that after exhausting of normal modes of service, finally paper publication was made in the daily newspaper '*Hindustan*' which is well read and has wide circulation, but despite the same, the petitioner chose not to appear and, thus, law would not come to the rescue of such person who has not shown respect to the law by appearing before the Court upon notice being sent by it. Further, it was submitted that the petitioner doing job in *Qatar* cannot be said to be incapable of affording Rs. 10,000/- per month by any standard. It was submitted that the opposite party no. 1 had brought cogent materials and the witnesses



examined have also stated with regard to the financial condition of the petitioner which clearly indicates that Rs. 10,000/- is highly reasonable and affordable. Learned counsel submitted that in fact, she had asked for Rs. 20,000/- per month as maintenance and the Court has reduced it by 50% and awarded only Rs. 10,000/- jointly in favour of the opposite parties, which needs no interference.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any infirmity in the order impugned warranting interference. The sole ground taken by the petitioner that he was not noticed is fit to be rejected outright for the reason that once the last mode of service of notice to a person as contemplated in law i.e., through paper publication, has been resorted to, there cannot be any presumption in favour of the petitioner with regard to him not being aware of the pendency of the application. Further, coming on merits also, Rs. 10,000/- jointly in favour of the opposite party no. 1 and her minor son, in the background of the fact that the petitioner works at *Qatar*, which has not been disputed before the Court even by learned counsel for the petitioner in the present proceeding, in no way can be said to be either unreasonable or exorbitant.



7. For reasons aforesaid, the application stands dismissed.

8. The Lower Court Records be returned forthwith.

(Ahsanuddin Amanullah, J.)

P. Kumar

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