

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.14 of 2018

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Kunal Kumar @ Deepak Kumar Son of Umesh Singh @ Medi Singh, resident of Village- Fatehpur Kanchan Tola, P.S. Didarganj, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Dipika Devi @ Dolly, Wife of Kunal Kumar @ Deepak Kumar Daughter of Dilip Kumar Singh, resident of Raghapur, Chandel, P.S. Jurawanpur, District- Vaishali.

... .. Opp. Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar with Ms. Maruti Kumari, Advocates
For the State	:	Mr. Jhakhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-08-2019

Heard learned counsel for the petitioner and learned APP
for the State.

2. Despite valid service of notice on the opposite party
no. 2 nobody appeared when the matter was taken up and heard.

3. The petitioner has moved the Court under Section 19
(4) of the Family Courts Act, 1984 against the judgment and order
dated 29.07.2017 passed by the Principal Judge, Family Court,
Vaishali in Maintenance Case No. 217 of 2012 by which the
petitioner, who is the husband of the opposite party no. 2, has been
directed to pay a sum of Rs. 5,000/- per month to the opposite
party no. 2 by way of maintenance for herself and her two minor
children.



4. Learned counsel for the petitioner submitted that he is always ready to keep the opposite party no. 2 and the children with him but she has deserted him. It was submitted that the daughter is living with the petitioner while the son is living with the opposite party no. 2 and, thus, factually the order impugned becomes infirm. It was submitted that even with regard to the quantum, the petitioner not having regular source of income or earning a decent amount, Rs. 5,000/- to be paid to the opposite party no. 2 is high. Learned counsel submitted that the case of the petitioner has not been properly appreciated or considered by the Court below.

5. Learned APP submitted that the order of the Court below is justified, both on facts as well as in law. It was submitted that the Court has accepted the contention of the petitioner that no cogent material was placed before it to show that he possessed 10 acres of land and earned Rs. 20,000/- to 25,000/- per month and, has taken a very basic and safe presumption that even if the petitioner is a daily labourer he can provide Rs. 5,000/- per month to the opposite party no. 2 and her two minor children as maintenance. It was submitted that as per the minimum wages rate, the petitioner would earn monthly about Rs. 15,000/-, and, thus, the direction to pay Rs. 5,000/- per month is most reasonable and just.



6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and upon going through the judgment impugned, the Court finds that the same is well considered and based on cogent materials before it. In fact, this Court approves the reasoning of the Court below of going on the presumption that even as a daily wage labourer the petitioner would still be in a position to provide Rs. 5,000/- per month to the opposite party no. 2 and her two minor children for maintenance. Thus, taking an overall view, the Court does not find any ground which would warrant interference by this Court, in its revisional jurisdiction, against the order impugned.

7. Accordingly, the application stands dismissed.

8. The lower Court Records be returned forthwith.

9. Before parting, the Court would only observe that it was initially inclined to enhance the order of maintenance but upon being persuaded by learned counsel for the petitioner, has refrained from doing so.

(Ahsanuddin Amanullah, J)

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