

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 51 of 2018

Arising out of
Miscellaneous Appeal No.952 of 2016

Arising Out of Miscellaneous Case No.- 21 Year- 2012 Thana- Goh District- Aurangabad

Md. Jahangir Ansari Son of Dil Mohammad Ansari, Resident of Village & P.O. Munjhara, Police Station- Goh, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shama Khatoon @ Anwari Khatoon, daughter of Asghar Ansari, Wife of Jahangir Ansari, Resident of Village & Post Office- Munjhara, P.S. Goh, District- Aurangabad. At present resident of Village- Jaitpur, Police Station- Haspura, District- Aurangabad (Bihar).
3. Munna Ansari Son of Jahangir Ansari 1 years under the Guardianship of his mother, Resident of Village and P.O. Munjhara, P.S.-Goh, District- Aurangabad

... .. opposite party/s

Appearance :

For the Petitioner/s	:	Mr.Binod Kumar
For the Respondent/s	:	Mr.Shailesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 25-06-2019

Heard learned counsel for the petitioner; learned APP for the State and learned counsel for the opposite parties no. 2 and 3.

2. The petitioner has moved the Court under Sections 397 and 401 of the Code of Criminal Procedure, 1973 for the following relief:

“That the present criminal revision application is directed against the order dated 13.07.2016 passed in Miscellaneous Case No. 21 of 2012 by Shri Om Prakash, II learned Principal



Judge, Family Court, Aurangabad (Bihar) whereby the appellant has been directed to pay Rs. 3000/- per month for O.P. 2 and further directed to pay Rs. 1000/- per month for son depositing in her bank account by 10th day of each and every month from the date of filing of Maintenance Application.”

3. The opposite parties no. 2 and 3, who are wife and son of the petitioner had filed Miscellaneous Case No. 21 of 2012 before the Principal Judge, Family Court, Aurangabad for grant of maintenance. After full-fledged trial, final order was passed on 13.07.2016 by which Rs. 3,000/- per month and Rs. 1,000/- per month was directed to paid by the petitioner to the opposite parties no. 2 and 3, respectively, by way of maintenance. The same is impugned in the present application.

4. Learned counsel for the petitioner submitted that the income of the petitioner has not been proved during trial as no document in this regard has been produced. It was submitted that the petitioner is still ready to maintain the opposite parties no. 2 and 3 at his ancestral place but he cannot take them to Mumbai where he is working.

5. At this juncture, when the Court asked him why he would not take the opposite parties no. 2 and 3 with him to the place where he was working, as the natural expectation in marriage is that the couple and the children would live together and not at separate places, learned counsel could not give any



explanation. He only submitted that even the opposite party no. 2 is self engaged and is earning enough to maintain herself.

6. Learned counsel for the opposite party no. 2 submitted that the petitioner has not even bothered to even see the opposite party no. 3, who is his son and further that he had remarried at Mumbai and that is why he is not ready to keep the opposite parties no. 2 and 3 with them. It was submitted that it has come during trial where witnesses have stated that the petitioner was working in a bag shop at Mumbai.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application.

8. First of all, the very fact that the petitioner is not ready to take the opposite parties no. 2 and 3 with him to Mumbai where he works itself indicates that the petitioner does not have clean intention. When a person marries any woman, it is his duty to not only maintain her but to keep her with himself and also the children who may be born out of the wedlock. The stand taken by the petitioner before the Court below that the opposite party no. 2 was not ready to serve his parents is totally unacceptable. There is no obligation on the part of the wife to serve the parents of the husband, and only out of love and affection she may serve the



parents but she has no compulsion under any law to do such service to the parents of the husband. Moreover, the petitioner not wanting to take the opposite parties no. 2 and 3 with him to Mumbai where he works also indicates that there may be some truth in the allegation against him of having married another lady. Moreover, the Court finds justification in the stand of the opposite party no. 2 that she is not required to go and serve the parents of the petitioner at his ancestral place. Further, despite being the father, the petitioner not even bothering to see his son (opposite party no. 3), muchless providing any financial support for him, till the intervention by the Court is sufficient proof of him not discharging his responsibility. Taking an overall view in the matter, an amount of Rs. 3,000/- for the opposite party no. 2 and 1,000/- for the opposite party no. 3 is totally reasonable and justified. In today's time, such amount may not even be enough to take care of even the basic needs of opposite parties no. 2 and 3. Thus, even if it is accepted that the opposite party no. 2 is having some income, the same shall not absolve the petitioner from discharging his obligation of supporting monetarily his wife and son. Moreover, it is the duty of the petitioner, being the husband and father to ensure that he earns enough so as to maintain the opposite parties no. 2 and 3 and pay them Rs. 3,000/- + 1,000/-



per month and the same can in no view of the matter be termed to be either excessive or arbitrary.

9. For reasons aforesaid, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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