

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 140 of 2018

Arising Out of Complaint Case No.- 759C Year- 2015 Thana- District-

Dr. Ashok Kumar Jha, Son of Late Bhuneshwar Jha, Resident of Village- Bishauni, P.S.- Parbatta, District- Khagaria, presently residing at Quarter No.T 1-74 Lane-7, Headquarter, Pasighat, P.S. East Siyang, District- East Siyang, State-Arunanchal Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Aditi Prakash @ Sonki @ Sonki Kumari, Daughter of Ashok Kumar Jha, Presently residing at Village- Basgarha, P.O. Basudeopur, P.S. Munger Kotwali, District- Munger.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar Singh, Advocate
For the Opposite Party No. 2	:	Mr. Prabhat Ranjan Singh, Advocate
For the State	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 27-08-2019

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

2. The petitioner has moved the Court under Sections 397 and 401 of the Code of Criminal Procedure, 1973 against the judgment and order dated 13.11.2017, passed by the learned Additional Sessions Judge 1st, Munger in Criminal Appeal No. 26 of 2016 by which the judgment and order dated 04.06.2016 passed by the Chief Judicial Magistrate, Munger in Complaint Case No. 759C of 2015, directing the petitioner to pay Rs. 7,000/- per month



for education and living to the opposite party no. 2 has been upheld.

3. The petitioner is the father of the opposite party no. 2. The first wife of the petitioner, who is the mother of the opposite party no. 2, is since living separately from the petitioner and there is a divorce case, filed by the petitioner, pending.

4. Learned counsel for the petitioner submitted that he is ready to take full responsibility of the opposite party no. 2, as she is his daughter. He submitted that the petitioner has been paying certain amounts and further that she is not pursuing her study and the amount of Rs. 7,000/- directed to be paid to her would be misused by her maternal uncle with whom she is living. It was submitted that the petitioner has other family members to take care of as he has a second wife and children. It was submitted that the petitioner is teaching in the Central University and his salary is Rs. 80,000/- per month. However, on a query of the Court with regard to such statement being made in the pleadings or any material in support thereof being brought on record, learned counsel submitted that the same has not been done. It was submitted that the petitioner is only concerned with the money given by him not being misused and used for the maintenance and study of the opposite party no. 2.



5. Learned APP for the State and learned counsel for the opposite party no. 2 submitted that the petitioner had developed illicit relationship with another women and had started torturing the mother of the opposite party no. 2, due to which even the opposite party no. 2, who is the daughter from the first wife is living separately. It was submitted that the opposite party no. 2 is pursuing her study by preparing for the Engineering competitive examination which costs a substantial amount and even Rs. 7,000/- per month is not sufficient to meet such expenses. It was submitted that the petitioner while being granted anticipatory bail by the Court was directed to pay Rs. 1,000/- per month as interim maintenance to the opposite party no. 2 till the final decision in the present case, but neither the payment of Rs. 1,000/- is being made on time nor after passing of the order payment has been made in terms thereof.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does find any ground to interfere in the order impugned. Not only this, since the petitioner admits that the opposite party no. 2 is his daughter and is ready to take responsibility of all her educational and living expenses, coupled with the fact that he is earning substantially to afford such burden, the application stands disposed



off with modifying the order of the Court below in the following manner:

(i) The amount of Rs. 7,000/- per month will be paid in terms of the order of the Court below to the opposite party no. 2 by the petitioner as maintenance.

(ii) Besides that the expenses incurred on her education shall also be paid by the petitioner upon receipt being filed before the Court below on behalf of the opposite party no. 2 showing such payment to any educational or coaching institute for pursuing her studies. Upon such application enclosing the receipt being filed in the Court below, the petitioner upon getting the same verified, shall pay the amount in favour of the opposite party no. 2, within two weeks from filing of such application on behalf of the opposite party no. 2 before the Court below.

7. The application stands disposed off in the aforementioned terms.

8. It goes without saying that the Court below shall also ensure that the case itself, which is still pending, is concluded and final order passed, preferably within six months from the date of receipt of a copy of this order.



9. Further, whatever arrears is required to be paid by the petitioner in terms of the order of the Court below shall be paid within two months from today.

(Ahsanuddin Amanullah, J.)

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