

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.116 of 2016

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

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Laxmi Devi Daughter of Late Brahmdeo Singh and Wife of Arun Kumar, At present residing at Naya Gaon Shiromani Tola, P.S. - Parbatta, District - Khagaria.

... .. Petitioner

Versus

1. State Of Bihar
2. Arun Kumar, Son of Bilat Rai, Resident of Mohalla - Jai Prakash nagar Khagaria, P.S. and District - Khagaria.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Dronacharya, Adv.
For the Respondents	:	Mr. Shri Akhileshwar Prasad Singh, Sr. Adv.
For the State	:	Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

- 3 22-04-2019 This revision application has been filed against the order dated 01.12.2015 passed by the Principal Judge, Family Court, Khagaria in Maintenance Case no.04MF/2006, by which the learned court below has granted maintenance to the tune of Rs.4,000/- per month each for the wife and a daughter Ritika.

The impugned order has been challenged with respect to quantum of maintenance only and not on the other findings on the ground that O.P.no.2 is a Bank employee and he was getting salary of Rs.40,000/- per month at that time and that apart, he has six flats on rent and 03 bighas of land, however, the learned court below has given findings on the maintenance only considering the salaried income of O.P.no.2 without considering the other income. Further submission is that



petitioner brought evidence on record that he has 06 flats on rent and agricultural income also, whereas the O.P.no.2 has defended the impugned order on the ground that there is no illegality or impropriety in the impugned order, as there is no evidence on record with regard to annual income and from agriculture and rent.

On perusal of the record, it appears that the case of the petitioner is that the O.P.no.2 is working in the bank and getting salary of Rs.40,000/- per month and further the case is that he has 06 flats at Khagaria given on rent and he earns Rs.10,000/- as rent and he has 20 bighas of farm land also. On the other hand the case of O.P.no.2 is that he is a bank employee but his wife is suffering from cancer and he has purchased land from his mother at Jai Prakash Nagar at Khagaria and constructed his house thereon and residing with his family and children in rented house and further admitted that he has 03 bighas of single crop land.

The learned court below has considered the evidence available on the record and so far income is concerned, it appears that the maintenance amount has been decided on the basis of salary income of O.P.No.2, however, he has not considered the income of the O.P.no.2 from the rent as well as



from agriculture though the O.P.no.2 has admitted that he has 3 bighas of land and constructed house at Jai Prakash Nagar.

In such view of the matter, this revision application is allowed to a limited point of assessment of the income of the O.P.no.2 from the agriculture income and the rent and after giving opportunity to both the parties, the Family Court shall pass appropriate order with respect to assessment of the annual/monthly income of the O.P.no.2 while deciding the quantum of the monthly maintenance to the petitioner and also to her daughter.

It is needless to say that both the parties shall co-operate in disposal of the same and Family Court shall pass order within a period of six months from the date of receipt of the order.

Accordingly, this impugned order is set aside only with respect to finding of the quantum of maintenance given by the Family Court to decide afresh after adducing the evidence as directed above.

It is also needless to say that during that period the O.P.no.2 shall continue to pay amount of Rs.8,000/- (Eight Thousand) per month to the petitioner and her daughter, and if not paid, the petitioner is free to take recourse of law for



realization of same.

Accordingly, this revision application is disposed of.

(Vinod Kumar Sinha, J)

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