

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.671 of 2016

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

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Vivek Jayaswal son of Sri Shivratan Jaiswal r/o New Market, Subjee Mandi,
Alipurdwar, P.S. - Court Thana, District - Jalpaiguri, West Bengal.

... .. Petitioner/s

Versus

Smt. Mili Anand @ Lovely daughter of Sri Dayanand Choudhary R/o
Mohalla - Mafat Lal Lain, Motijheel Muzaffarpur, P.S. - Town Thana, District
- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjiv Sharan

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 30-07-2019 This application has been filed against the order dated

14.12.2015 passed by learned Principal Judge, Family Court,
Muzaffarpur in Maintenance Case No. 93/2012, by which, he has
directed the petitioner to pay Rs. 5,000/- to opposite party per
month as interim maintenance.

Ground for assailing the impugned order is that
petitioner is only a vegetable seller and he has no other source of
income, though earlier he was engaged in the business of liquor
trade along with his father but now he is living separately and has
been separated from the business as well. Furthermore, the child
born out of the wedlock is residing with the petitioner and he has
to bear all the expenses towards his child and recently the
petitioner has suffered brain hemorrhage, as such he is not able to



pay the interim maintenance as fixed by the learned Family Court, Muzaffarpur as the same is excessive one.

On the other hand, learned counsel appearing on behalf of the opposite party has countered his submission that petitioner is not a vegetable seller rather he is contractor of vegetable and apart from the he is still engaged in the liquor business and has an income of Rs. Two Lakhs per month, as such, he has sufficient means to pay Rs. Five Thousand to opposite party towards her interim maintenance, whereas, the opposite party has no source of income and desires to pursue her higher studies.

It appears that the present application has been filed against an interim order passed by the Family Court, Muzaffarpur, which is not maintainable, however, considering the fact that the case is pending before this court since 2016 and due to which, the Maintenance Case No. 93/2012 would also be pending in the court below, as such, for the ends of justice, the present revision application is being decided on merit.

Having heard both sides and in view of the facts and circumstances as well as the materials available on record, this application is disposed of with modification in the amount of interim maintenance and petitioner is directed to pay Rs. 4,000/- per month to opposite party as an interim maintenance till final disposal of Maintenance Case No. 93/2012 pending in the court of



learned Principal Judge, Family Court, Muzaffarpur.

Learned Principal Judge, Family Court, Muzaffarpur is directed to expedite and dispose of the above mentioned maintenance case as early as possible.

As both the parties are appearing, they are directed to cooperate in expeditious disposal of the said maintenance case.

A submission has been made by learned counsel, appearing on behalf of opposite party that in spite of order of Family Court, Muzaffarpur to pay the interim maintenance, the petitioner has not paid even a single penny till date. In such view of the matter, if the opposite party files any application for realization of the arrears of interim maintenance amount as well as the current maintenance amount before the learned Family Court, Muzaffarpur, the learned Family Court, Muzaffarpur shall pass an appropriate order in accordance with law within a period of three months.

(Vinod Kumar Sinha, J)

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