

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.476 of 2016

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

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Raushan Kumar @ Roshan Yadav, son of Biranchi Yadav, resident of Village-
Barisankh, P.S.- Mufassil, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Reena devi, wife of Raushan Yadav, daughter of Jai Jairam Yadav, resident
of Village- Rajaura, P.S.- Mufassil, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. A. M. P.Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL JUDGMENT

Date : 08-07-2019

1. This revision application has been filed against the order dated 19.03.2016 passed by the Principal Judge, Family Court, Begusarai, whereunder the Principal Judge, Family Court, Begusarai has allowed the maintenance case filed by the opposite party no.2, allowing the maintenance amount of Rs.5000/- per month to her and Rs. 2000/- per month towards the maintenance of her daughter.

2. Facts giving rise to this revision application, in short, is that the opposite party no.2 has filed maintenance case, stating that she was married with the petitioner on 05.07.2016 and gave birth of a daughter, but thereafter, the petitioner started misbehaving with her and demanding Rs.50,000/- cash and a motorcycle, due to that she was being



subjected to physically and mentally and due to that behaviour, she has left the matrimonial house and started living in her Maika. She has filed the application for maintenance for herself and for her daughter, claiming that the petitioner has earning Rs.15,000/- per month.

3. During the proceedings, 05 witnesses have been examined on behalf of the opposite party no.2-wife and 07 witnesses in support of the claim of petitioner-husband have been examined.

4. The learned Family Court after considering the materials available on the record came to a finding that opposite party no.2 is wife of petitioner and she was left by the petitioner and due to that she is residing in her parental house with her daughter. The learned Family Court after considering the above facts, allowed the maintenance of Rs.5000/- per month to the opposite party no.2 and Rs.2000/- per month as maintenance of her daughter.

5. Being aggrieved by the same, the present revision application has been filed.

6. The ground for assailing the impugned order is that Para 12 of the impugned order discloses that the learned Family Court has not come to any definite finding about the



income of the opposite party no.2, but in spite of that he has allowed the maintenance altogether Rs.7000/- per month to her and her daughter, which does not appear to be any basis.

7. On the other hand, learned counsel for the opposite party no.2 has submitted that the learned Family Court has considered the fact that petitioner-husband is having a Magic Taxi bearing Registration No. BR-AF-4525 in the name of his father and the evidence also shows that the petitioner has not only landed property but also a tractor in his own name. PW-3 Ajay Kumar, who is uncle of the petitioner has stated that he has landed property. According to the PW-5 Ashok Rai, petitioner is at least earning Rs.15000/- per month. He has 05 cows for the dairy business and 10 Bighas of land also and in cross-examination also, the opposite party no.2 could not demolish the same. Considering the entire aspects of the matter, though the learned Family Court has not come to any definite finding of the monthly income of the petitioner and directed for payment of Rs.5000/- per month to the opposite party no.2 and Rs.2000/- per month to her daughter.

8. Having heard both sides and perused the record, it appears that learned court on consideration of materials available on record, come to a finding that marriage is admitted



and it is also admitted that she is residing in her Maika. It further appears that there is evidence available on record to show that she has no sufficient income to maintain herself and her child and materials also disclosed that she was forced to reside in her Maika.

9. In view of the discussion made above, I find that she is residing in vagary and destitute and entitled for maintenance. So far assessment of income of the petitioner is concerned, learned Family Court, on the basis that family of petitioner is maintaining vehicle, presumed that he must have income of Rs.35000/- per month.

10. In view of the discussion made above, impugned order dated 19.03.2016 passed by the learned Principal Judge, Family Court, Begusarai, awarding maintenance of Rs.7000/- per month to the opposite party no.2 and her daughter appears to be excessive, as such, the same is modified to Rs.5000/- per month to the opposite party no.2 and to her daughter both.

11. Accordingly, this revision application is disposed of with above modification in the amount of maintenance. Award of litigation cost shall remain intact.

12. A submission has also been made by the opposite party no.2 that she has not been paid a single penny towards



maintenance by the petitioner up till now, for that the opposite party no.2 is always at liberty to move before the learned Family Court for realization of the same and if such petition is filed, the learned Family Court has to pass an order after hearing both the parties within a period of three months.

(Vinod Kumar Sinha, J)

sunil shukla/-

AFR/NAFR	NAFR
CAV DATE	NA
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