

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.635 of 2013

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

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Priti Verma @ Priti Bariyar W/O Sri Surendra Prasad Verma Residing C/O
Arun Kumar Sinha, 'Sneh Kumz' Paharpur More, Police Colony, Anisabad,
P.S.- Gardanibag, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar,
2. Surendra Prasad Verma S/O Late Balmiki Prasad Resident Of Village- Pi-Bigha, P.S.- Bela, District- Gaya At Present Posted As Lecturer In R.P.S. College, Harnaut, District- Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Sinha
For the Respondent/s	:	Mr.Arvind Kr. Pandey App

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

13 16-08-2019 Heard the learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of respondent No. 2 and learned Additional Public Prosecutor for the State.

This Criminal Revision is directed against the order dated 13.09.2012 passed in Maintenance Case No. 73 (M) of 2002, whereby and whereunder, the Additional Principal Judge, Family Court, Patna allowed the application of petitioner filed under Section 125 of the Cr.P.C. directing the O.P. No.2 to pay Rs. 2500/- per month to the petitioner as maintenance from the date of order.

Learned counsel appearing on behalf of the



petitioner submits that while the petitioner had filed the application under Section 125 of Cr.P.C. in the year 2002 and the same was allowed to through impugned order dated 13.09.2012 after about 10 years, but the learned Addl. Principal Judge, Family Court, Patna committed illegality in not allowing Rs. 2500/- per month as maintenance payable by the O.P. No.2 from the date of application and he placed reliance on the decision in case of Bhuwan Mohan Singh vs. Meena and others, 2014 (3) P.L.J.R. 499.

Learned counsel appearing on behalf of O.P. No.2 submits that petitioner had filed Maintenance Case No. 73 of 2002 under Section 125 of Cr.P.C. against O.P. No.2 for directing to pay Rs. 3000/- per month as maintenance. During the pendency of the application filed under Section 125 of Cr.P.C., the petitioner filed an application for interim maintenance, which was rejected on 05.12.2003 with finding that in Matrimonial Case No. 109 of 1997 filed by the petitioner for divorce order has already been passed to pay interim maintenance to petitioner by the O.P. No.2. The petitioner again filed an application on 03.02.2003 for interim maintenance, but the same was also rejected on 15.09.2009 with finding that she is already receiving Rs. 2500/- per month



in Matrimonial Case No. 109 of 1997.

The case of Bhuwan Mohan Singh (Supra) will not be applicable in present case as in the said case, Family Court, Jaipur allowed the application filed under Section 125 Cr.P.C. with direction to pay maintenance from the date of order. The wife preferred revision under Section 19(4) of the Family Court Act before the High Court of Judicature at Rajasthan, which was allowed with direction to pay the maintenance from the date of filing the application under Section 125 Cr.P.C. Thereafter, husband preferred the Criminal Appeal No. 1331 of 2014, which was dismissed with observation that there is no illegality in the revisional order of the High Court. Whereas, in present case prayer of interim maintenance of petitioner was rejected twice due order of payment of interim maintenance in Matrimonial Case No. 109 of 1997 filed the petitioner for divorce.

On perusal of the order dated 05.12.2003 and order dated 15.09.2009 (Annexure-1 and 2) of the Supplementary Affidavit filed on behalf of O.P. No.2 shows that on two occasions the prayer of petitioner for interim maintenance were refused in Maintenance Case No. 73 (M) of 2002 by the Court of Addl. Principal Judge, Family Court, Patna



due to order passed in Matrimonial Case No. 109 of 1997 for payment of interim maintenance of Rs. 900/- per month to the petitioner by O.P. No.2.

As such, I find no illegality in the impugned order, whereunder O.P. No.2 is directed to pay Rs. 2500/- per month as maintenance to petitioner from the date of order.

(Rajendra Kumar Mishra, J)

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