

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1117 of 2017

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

Md. Maidur Rahman Son of Moulana Darjish, Resident of Village-Banaili
P.S. Kasba, District-Purnea

... .. Petitioner

Versus

1. The State Of Bihar
2. Bibi Tarana Khatoon D/o Md. Hasim,
3. Musharag Jahan D/o Bibi Tarana Khatoon.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Vikramdeo Singh, Adv. Mr. Bijendra Kumar Singh
For the Respondent/s	:	Mr. Sri Lakshmi Kant Sharma, APP
For O.P. No. 2 and 3	:	Mr. Vikram Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 29-07-2019 This revision application has been filed against the order dated 23.09.2017 passed by the learned Principal Judge, Family Court, Purnea in Maintenance Case No. 135/2013, wherein, the petitioner has been directed to pay Rs. 3,000/- to opposite party no. 2 and Rs. 1500/- to opposite party no. 3 towards their maintenance.

Facts in short is that marriage of opposite party no. 2 was solemnized with the petitioner – husband on 25.02.2007 and a child was born out of the wedlock. Thereafter, the petitioner started torturing and harassing opposite party no. 2, for which, she has lodged a Complaint Case No. 1305 of 2013 under Section 498A of the Indian Penal Code and the present



maintenance case has been filed on the ground that she has no source of income, whereas, husband – petitioner has an income of Rs. Eleven Lakhs per year.

It appears that petitioner has appeared in the said maintenance case and filed his show-cause denying all the allegations levelled by the opposite party no. 2 but admitted the factum of marriage with opposite party no. 2 and the birth of a child from the wedlock. Case of the petitioner is that he is a labourer and earns Rs. 200 per day and he is presently suffering from mouth disease and he is under regular treatment at All India Institute of Medical Science, New Delhi as well as in Patna.

It further appears that five witnesses were examined on behalf of the opposite party no. 2, whereas, four witnesses were examined on behalf of the petitioner-husband. Learned Family Court after considering the materials available on record, allowed the maintenance case filed by opposite party no. 2 directing the petitioner to pay Rs. 3,000/- to opposite party no. 2 and Rs. 1500/- to opposite party no. 3 towards their maintenance.

Ground taken by the petitioner for assailing the above order passed by learned Family Court, Purnea is that the



petitioner is a labourer and earns on Rs. 200/- per day and he is suffering from mouth disease and is under treatment at AIIMS, New Delhi as well as in Patna, however, the learned Family Court has not considered these aspects of the matter and also without assessing the real income of the petitioner, allowed the maintenance case filed by opposite party no. 2 directing the petitioner to pay Rs. 4500/- per month to opposite party no. 2 and opposite party no. 3, which is quite excessive. Further ground is that no Nikahnama has been filed by opposite party no. 2 and the learned Family Court, Purnea has passed the order in very mechanical manner.

On the other hand, learned counsel appearing on behalf of opposite party nos. 2 and 3 has submitted that there is no dispute that opposite party no. 2 is the wife of the petitioner and she has a daughter also and presently, she is residing in her maike and she has no source of income, whereas, opposite party no. 2 has brought on record the materials to show that petitioner has sufficient income to maintain opposite party nos. 2 and 3, as such, the order passed by learned Family Court, Purnea does not suffer from any infirmity or inconsistency.

Having heard both sides, from perusal of the record, it appears that petitioner has admitted that opposite party no. 2 is



his wife and he has also admitted that a daughter was born out of her marriage and it is also the case of petitioner that opposite party no. 2 is earning from tailoring, whereas, petitioner is a labourer and merely earns Rs. 200/- per day, however, it appears that nothing has been brought on record to show that opposite party no. 2 has any source of income, whereas, so far income of the petitioner is concerned, opposite party no. 2 claimed that petitioner is a contractor also and he earns Rs. Eleven Lakhs per year, however, in support of this this case also, no documents have been brought on record, whereas, petitioner has come with a case that he is a labourer and earns only Rs. 200/- per month and he is also suffering from mouth diseased and on regular treatment at All India Institute of Medical Science, New Delhi as well as at Patna.

Considering the entire facts and circumstances of the case, the amounts, which has been fixed by learned Family Court towards the maintenance of opposite party nos. 2 and 3, appears to be little excessive especially in the background that learned Family Court has not come to any finding with respect to the annual or monthly income of the petitioner.

Accordingly, while confirming the order dated 23.09.2017 passed by the learned Principal Judge, Family Court,



Purnea allowing the Maintenance Case No. 135/2013, the amount of maintenance is reduced to the extent that petitioner is directed to pay Rs. 3,000/- per month to opposite party no. 2 and Rs. 1500/-per month to opposite party no. 3 towards their maintenance.

Lastly, a submission has been made by learned counsel appearing on behalf of opposite party nos. 2 and 3 that in spite of order of learned Principal Judge, Family Court, Purnea, the petitioner is not paying any amount to the opposite party nos. 2 and 3 towards their maintenance, for which, opposite party nos. 2 and 3 are at liberty to file an application before the learned Principal Judge, Family Court, Purnea for realization of arrears as well as current maintenance amount and, if any, such application is filed, the learned Principal Judge, Family Court, Purnea will dispose of the same within a period of three months in accordance of law.

With the above modification in the maintenance amount, this application is disposed of.

(Vinod Kumar Sinha, J)

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