

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.277 of 2016

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

Absar Alam Son of Late Quamruddin, resident of Village- Dalia, Police Station- Kochadhaman in the district of Kishanganj.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Gulchaman Ara, Daughter of Zahidur Rahman, resident of Chunamari, Police Station- Kochadhaman in the District of Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Raj Kumar, Adv.
For the Respondent/s	:	Mr.Rajendra Singh Shastri Jee App
For O.P. No. 2	:	Mr. Pankaj Kumar Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 29-04-2019 This revision application is directed against the order dated 06.02.2016 passed by the Principal Judge, Family Court, Kishanganj in Maintenance Case No. 9/2013/ C.I.S. No. 142 of 2015, by which, the petition filed by the opposite party no. 2 under Section 125 Cr.P.C. has been allowed and petitioner has been directed to pay Rs. 3,000/- (Rs. Three Thousand) per month from the date of order along with cost of Rs. 5,000/- (Rs. Five Thousand) in cash in five installments within five months.

Learned counsel for the petitioner has confined his argument only on the point of quantum of maintenance and submitted that without giving any finding with regard to the actual income of the petitioner, learned Family Court has passed



the order directing the petitioner to pay maintenance amount of Rs. 3,000/- (Rs. Three Thousand) per month to opposite party no. 2, which appears to be quite excessive and the order passed by the learned Principal Judge, Kishanganj is not sustainable in the eye of law.

On the other hand, learned counsel appearing on behalf of opposite party no. 2 has defended the impugned order on the ground that on the basis that petitioner being able bodied, amount of maintenance of Rs. 3,000/- (Rs. Three Thousand) has been awarded to the opposite party no. 2 and the same appears to be just and proper.

Heard both sides. From perusal of record, it appears that the learned Family Court after considering the materials available on record has come to conclusion that opposite party no. 2 is the wife of petitioner and she has been deserted by the petitioner and no doubt opposite party no. 2 has come with a case that petitioner has six bighas of cultivable land but there is no evidence in this regard. However, the Court below after considering the fact that petitioner (opposite party no. 2) is a healthy and able bodied to earn money even by doing the work of physical labour and as such awarded Rs. 3,000/- per month as maintenance to opposite party no. 2.



Considering the fact that opposite party no. 2 is the legally wedded wife of the petitioner and it is the sacrosanct duty of a husband to render the financial support to his wife even if he is required to earn money by physical labour, if he is able bodied. Therefore, I do not find any infirmity in the order passed by learned Principal Judge, Family Court, Kishanganj, directing the petitioner to pay maintenance to opposite party no 2. However, learned Family Court has not considered this aspect of the matter that in each month, there are holidays and Sundays as such instead of calculating the income of petitioner for 30 days is sought to be calculated for 25 days, hence considering the above aspect as well as daily wages as fixed by Government, the amount of maintenance of Rs. 3,000/- (Rs. Three Thousand) per month fixed by the learned Principal Judge, Family Court, Kishanganj appears to be a bit excessive. In such view of the matter, while affirming the impugned order, this court deems it appropriate to modify the amount of maintenance of Rs. 3,000/- (Rs. Three Thousand) to Rs. 2200/- (Rs. Twenty Two Hundred) per month to be paid by the petitioner to opposite party no. 2 in the second week of each month.

So far arrears of maintenance is concerned, the petitioner is directed to pay the same to opposite party no. 2 within a



period of six months even in installment.

With the above observation and direction, this application
is disposed of.

(Vinod Kumar Sinha, J)

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