

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.636 of 2016

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

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LALAN SAH @ LALLAN SAH son of Mahendra Sah Resident of Village
Harpur Bazar P.S. Uchhkagaon District Gopalganj

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rina Devi wife of Lalan Sah, D/o Ravindra Prasad
Resident of Village Harpur Bazar, P.S. Uchhkagaon District Gopalganj
Presently residing at Vilage Nawada Parsauni P.S. Uchhkagaon District
Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar Singh
For the Respondent/s : Mr.Sri Uday Pratap Singh

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 19-07-2019 This application has been preferred against order dated

3.5.2016 passed in CIS Case (Maintenance) No.769 of 2016,

whereby and whereunder the learned Principal Judge, Family

Court, Gopalganj has allowed maintenance of Rs.3,000/- to the

applicant and Rs.2,000/- to her minor son.

No one appears on behalf of the petitioner in this case

It further appears that earlier also the petitioner was

directed to take steps for issuance of notice, vide order dated

11.5.2018 but from order dated 16.7.2018 , it appears that the

petitioner has not taken steps for issuance of notice, however,

Opposite Party No.2 has appeared voluntarily and as such it



appears that the petitioner has no interest in the matter.

On perusal of the record, it appears that O.P.no.2 has filed Maintenance Case No.194 of 2010 stating therein *inter alia* that for non-fulfilment of the demand of the motorcycle, she was subjected to atrocities and finally on 4.5.2010 she was asked to bring motorcycle and cash of Rs.10,000/- and as she could not fulfil the demand, she was drove from the matrimonial house with her minor son and since then she is living at her *naihar* having no source of income and it is alleged that the petitioner has stopped maintaining them. It is also her case that the petitioner has monthly income of Rs.30,000/- from the hotel and monthly income of Rs.10,000/- from the from his five bighas of agricultural land.

The petitioner has appeared in the maintenance case, filed his show case denying allegation and stating that she is residing in her *naihar* and the petitioner is ready to keep her and he has also denied the assertion of O.P.no.2 about the income rather he has stated that he is an unemployed person.

The learned Magistrate after conclusion of the proceeding has come to conclusion that O.P.no.2 is wife of the petitioner and there is no reason to disbelieve the statement of the witnesses examined on behalf of the applicant and



accordingly, he allowed maintenance and directed the petitioner to pay Rs.3,000/- to the O.P.no.2 and Rs.2,000/- to O.P.no.3 (her son) .

Being aggrieved by the same, this revision application has been filed by the petitioner.

As stated above, no body appears on behalf of the petitioner to argue this case, however, it appears from contention of the application that he has taken a plea that O.P.no.2 has no reason to live separately and further stated that her son was living with the petitioner and later on he was taken by O.P.no.2 and also stated that the award of the maintenance is excessive.

It appears that three witnesses have been examined on behalf of the O.P.no.2 whereas one witness has been examined on behalf of the petitioner and even the petitioner has not himself appeared in the dock for his evidence.

Heard learned counsel for the O.P.no.2 and perused the record, from which it appears that three witnesses have been examined on behalf of O.P.no.2 and they have supported the case of the applicant that she has been ousted from the house for demand and she has also one child and also supported the case of the applicant that he is earning of Rs.30,000/- per



month. On behalf of the petitioner only sole witness has been examined as P.W.1. Petitioner has himself not appeared in the court to be examined in this case.

Learned court below considering the materials available on the record has come to conclusion that the applicant is admittedly legal wedded wife of the petitioner and she has a son also from that marriage and it is also admitted that she is residing at her *naihar* and the petitioner has not appeared to be examined in this case, as such the learned court below has come to the conclusion that there is no reason to disbelieve the submission of the wintriness examined on behalf of the applicant. It further appears that in spite of the fact that the petitioner is able bodied person and he has neglected the O.P.no.2, the learned court below allowed the maintenance of Rs.3,000/- to O.P.no.2 and Rs.2,000/- to O.P.no.3.

Considering the above facts, I find no illegality or infirmity in the above order.

Accordingly, this revision application is dismissed.

(Vinod Kumar Sinha, J)

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