

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.791 of 2016

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

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Sujit Kumar son of Ramanand Singh R/o Village- Uttari Gangajal, P.S.-
Rajapakar, District- Vaishali.

... .. Petitioner/s

Versus

Bebi Devi W/o Sujit Kumar, D/o Lalbabu Singh R/o Village and P.S.-
Rajapakar, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Tiwary

For the Respondent/s : Mr.Sri Ram Priya Saran Singh

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL JUDGMENT

Date : 13-08-2019

This revision application has been filed against order dated 7.5.2016 passed by the learned Principal Judge, Family Court, Hajipur, Vaishali in Maintenance Case No.2 of 2011 whereby and whereunder Rs.2,000/- per month was allowed to the Opposite Party -wife for maintenance.

2. Grounds for assailing the above order is that the petitioner is a unemployed person and the award is excessive as he has no source of income.

3. Facts in short is that Opposite Party No.2 has filed an application for grant of maintenance stating that she was forced to bring Rs.01 lac as dowry and due to non-fulfillment of the same she was compelled to live with her parents along with her children. Further case is that due to the bad financial condition of



her parents, she is unable to maintain herself. She has also come with a case that the petitioner has six acres of land and he is a teacher and he earns Rs.15,000/- per month, as such she has prayed for grant of Rs.7,000/- per month as maintenance.

4. It has been submitted by the learned counsel for the petitioner that he is an unemployed person and he is dependent on his father for his livelihood, whereas the Opposite Party earns Rs.10,000/- per month from sewing and further he is ready to keep her .

5. Learned court below after recording evidence on behalf of both the parties allowed the application vide order dated 7.5.2016 directing the petitioner to pay Rs.3,000/- per month as maintenance and as stated above, the same has been challenged by the petitioner on the ground that he has no source of income and she earns Rs.10,000/- per month. From perusal of the judgment it appears that Opposite Party has come with a case that the petitioner has two Trucks and one Maruti Car, however, she failed to produce the number of the Maruti car and the Truck and she has also come with a case that the petitioner has three bighas of land. Judgment further discloses that the petitioner in his application under Section 9 of the Hindu Marriage Act has admitted that he



had married with another lady and the same is a valid ground for Opposite Party for living separately from the petitioner.

6. Petitioner has come with a case that Opposite Party no.2 is earning Rs.10,000/- per month from sewing but no supporting documents or any evidence has been brought on the record and the same has been denied by the Opposite Party in her cross examination.

7. Considering the fact that factum of relationship as husband and wife between petitioner and Opposite Party has not been denied and it has come that petitioner married with another lady and that is a good ground for Opposite Party No.2 for living separately and there is nothing available on record to show that she has any income to maintain herself, the learned court below has allowed the maintenance es.3,000/- per month. The same has been challenged also on the ground that the award is excessive as he has no source of income , however, it is well settled principle that the petitioner being husband and able-bodied person has to maintain his wife, even it is presumed that if the petitioner works as a labourer, he may earn Rs.9,000/- Per month (Rs.300 X 30= Rs.9,000/-) and in view of the above, the award of maintenance of Rs.3,000/- does not appear to be excessive.

8. As such I find no merit in this application.



9. Accordingly, this revision application is dismissed.

(Vinod Kumar Sinha, J)

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