

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.384 of 2018

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

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Md. Mujahid @ Mujahid, S/o Shahid Mian, R/o Village- Baligarh, P.S.- Sikty,
Araria.

... .. Petitioner/s

Versus

1. Bibi Saira Bano, w/o Md. Mujahid @ Mujahid, d/o Md. Daud,
2. Kasarun, s/o Md. Mujahid,
3. Sairun, s/o Mujahid,
4. Saharun, s/o Mujahid,
5. Nasrin, d/o Mujahid, all above are resident of village-Belahi, P.S.- Jogbani,
Disrict- Araria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ramesh Kumar Singh, Advocate
For Opposite Party/s	:	Mr. Abhijeet Gautam, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 15-11-2019

Heard learned counsel for the petitioner; learned APP
for the State and learned counsel for the opposite party no. 2.

2. The petitioner has moved the Court against the order
dated 04.12.2017 passed by the Principal Judge, Family Court, in
Maintenance Case No.132 of 2015 by which he has been directed
to pay monthly maintenance of Rs.3,000/- to the opposite party
no. 1, who is his wife, and Rs.1,000/- each to opposite parties no.
2 to 5, who are his minor children.

3. Learned counsel for the petitioner submitted that
after 19 years of marriage she has deserted him and further he is



not in a position to pay the amount as he himself is not keeping good health. It was further submitted that the opposite parties no. 2 to 5, who are his children, are earning for themselves and that his father has got married his daughter.

4. Learned counsel for the opposite parties submitted that they were ousted from the matrimonial home as the mother was tortured and when the petitioner married for the second time, the condition became worse and, ultimately, they were ousted. It was submitted that today an amount of Rs.3,000/- to the wife and Rs.1,000/- each to the children is most reasonable and cannot be said to be either unreasonable and exorbitant.

5. Having considered the facts and circumstances of the case and submission of learned counsel for the parties, the Court does not find any merit in the present application.

6. In view of the fact that second marriage of the petitioner is not denied, the Court has no hesitation to believe that the opposite parties, naturally, would have been tortured and, in fact, ousted as the petitioner having got a second wife, it is difficult for the two wives to live under the same roof. Further, the Court is shocked from the stand taken on behalf of the petitioner that his children are earning since, at his own showing they are still minors. Thus, taking it to be a ground not to pay



maintenance is not only *malafide* but outrightly dishonest. Even if it is presumed that they may be earning some money from working, the same is clearly out of compulsion, which further fortifies their case for maintenance against the petitioner as they are doing child labour, which clearly cannot be willingly or voluntarily and only under extreme financial distress they may be doing the same. Thus, the Court finds that the amount of maintenance is not only reasonable, but, in fact, may not even be adequate in terms of quantum. Further, the opposite parties clearly are in dire need of money as the minor children are being forced to work.

7. For reasons aforesaid, the Court does not find any ground to interfere in the impugned order.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

J. Alam/-

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