

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.402 of 2018**

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

=====

Shanti Arya W/o Ajay Mistri @ Amresh Kumar D/o Sri Mahendra Mistri, R/o Vill.- Dhurgaon, P.O.- Dhurgaon, P.S.- Akgarsarai, Distt.- Nalanda at present C/o Rameshwar Prasad, Sanjay Nagar Road No.2, Vighrahpur, P.S.- Jakkanpur, Distt.- Patna. ... .. Petitioner

Versus

1. State of Bihar
2. Ajay Mistri @ Amresh Kumar S/o Late Karu Mistri , R/o Vill.- Katrubigha, P.S.- Parvalpur, District- Nalanda. ... .. Respondents

=====

**Appearance :**

For the Petitioner/s : Mr.Ajay Kumar Jain  
For the Respondent/s : Mr.Sri Bal Mukund Prasad Sinha

=====

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

7      26-02-2020                      Heard learned counsel for the petitioner and learned counsel representing the opposite party no. 2.

The petitioner is aggrieved by and dissatisfied with the judgment dated 08.12.2017 passed by learned Principal Judge, Family Court, Nalanda at Bihar Sharif in Maintenance Case No. 33M/2008 by which learned Principal Judge has awarded a maintenance of Rs. 3,000/- per month for herself and her handicapped son payable by the opposite party no. 2. The grievance of the petitioner is that the maintenance amount has been fixed without assessing the income of opposite party no. 2 who according to the petitioner is a teacher in government school earning about Rs. 20,000/- per month.

At the outset, learned counsel for the opposite party no.



2 has submitted before this Court that he has instruction to say that this Court may modify the impugned order in terms of the prayer made in the application under Section 125 Cr.P.C. (Annexure '1') filed before the learned Principal Judge, Family Court, Nalanda at Bihar Sharif in which the wife of the petitioner had prayed for award of a sum of Rs. 5,000/- per month as maintenance for herself and her handicapped son.

In view of the submissions made on behalf of the opposite party no. 2, learned counsel for the petitioner submits that the impugned order may be modified to the extent indicated hereinabove and an appropriate direction be issued to pay the entire outstanding amount within a reasonable period leaving it open for the wife-petitioner to seek her remedy for variation/alteration if any possible in terms of Section 127 Cr.P.C.

In the given facts and circumstances of the case, the impugned judgment is modified with the consent of the opposite party no. 2 to the extent that instead of Rs. 3,000/- the opposite party no. 2 shall pay a sum of Rs. 5,000/- per month as maintenance with effect from the date of the application i.e. 07.08.2008 as was ordered by the learned Principal Judge, Family Court, Nalanda at Bihar Sharif.

Learned counsel for the petitioner submits that the husband-opposite party no. 2 has not paid any amount so far on



account of maintenance and the petitioner has been made to contest this case upto this Court by somehow seeking financial assistance from her near relations.

Considering this aspect of the matter, this Court directs that in case the opposite party no. 2 fails to pay the entire outstanding amount in terms of the modified order hereinabove within a period of three months from today in three equal installments by way of bank draft in favour of the petitioner to be deposited in the court of learned Principal Judge, Family Court, Nalanda at Bihar Sharif, the petitioner shall initiate an appropriate proceeding for enforcement of the modified order and such application if filed by the petitioner will be considered by the concerned court. Because the opposite party no. 2 has not paid a single farthing to the petitioner so far and she has to spend on litigation in this case, this Court directs award of Rs. 10,000/- as cost of litigation to the petitioner which the opposite party no. 2 shall be liable to pay within a period of one month from today by way of bank draft in favour of the petitioner.

This application stands disposed off accordingly.

**(Rajeev Ranjan Prasad, J)**

arvind/ved

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

