

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.21 of 2020

Arising Out of PS. Case No.-6 Year-2016 Thana- DOMESTIC VIOLENACE District- Patna

Taranjeet Kaur @ Taranjeet Singh Son of Late Amarjeet Singh Resident of Village- Mauna Chowk, Punjabi Gali, Chapra Nagar, P.S.- Chapra, Distt.- Chapra.

... .. Petitioner

Versus

1. The State Of Bihar
2. Gurmeet Kaur W/o Late Baljeet Singh Resident of Village- Musallahpur Hat, P.S.- Kadamkuan, Distt.- Patna.

... .. Opposite Parties

Appearance :

For the Petitioner : Md. Abu Haidar, Advocate
For the Respondent/s : Mr. Rajendra Nath Jha

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 27-09-2022 After hearing learned counsel for the petitioner as well as opposite party no. 2, this Court finds that neither the learned Sub-Judge cum ACJM IV, Patna City nor the learned Additional Session Judge-V Patna City has considered as to how the petitioner being younger brother of the deceased husband of the opposite party no. 2 would be liable to pay maintenance to the opposite party no. 2 and on what basis and material, the learned court has directed the petitioner and his mother jointly to pay a sum of Rs. 10,000/- per month to opposite party no. 2.

Learned counsel for the petitioner submits that so far as the joint family properties are concerned, the opposite party no. 2 has already been given possession of her share in the house and she has acknowledged the same vide written acknowledgment



dated 11.08.2018 (Annexure '1' to the present application). She has got room with kitchen and toilet in the joint property but the court below has directed the petitioner and other members to pay maintenance amount of Rs. 10,000/- which is not in terms of the scheme of the Domestic Violence Act.

On the other hand, learned counsel for the O.P. No. 2 submits that the petitioner and other members of the family were in possession of the shop which was in share of her husband and for that reason they while living in jointness, were liable to provide a portion of the shared accommodation as well as maintenance. Learned counsel for the O.P. No. 2 submits that he is not aware of as to whether during the corona period both the shops have been vacated at the instance of the shop owner.

Be that as it may, since the crucial question as to the liability of the petitioner under the provisions of the Domestic Violence Act and the basis of determination of the maintenance amount have not been considered by the learned court below, this Court deems it just and proper to set aside the impugned judgment. Accordingly, the judgment dated 19.11.2019 passed by learned Additional Session Judge-Vth, Patna City affirming the judgment of the learned Sub-Judge-cum-ACJM-IVth, Patna City in D.V. Case No. 6 of 2016 is hereby set aside. Matter is remitted to the learned ACJM-IVth, Patna City for giving a fresh consideration to



the matter after giving appropriate opportunities to the parties to adduce their respective evidences and upon hearing them, an appropriate order shall be passed within a period of six months from the date of communication of this order.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

