

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.675 of 2018**

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

Manoj Kumar Son of Sri Om Prakash Tanti, resident of Village- Bariasikpur, Jamalpur, P.S.- East Colony, District- Munger, At present Working as Driver in Indian Railway, Sahibganj Jharkhand.

... .. Petitioner

Versus

1. Anuradha Kamlesh, Wife of Manoj Kumar, D/o Late Kamleshwar Prasad, resident of Choti Keshopur, near Railway no. 2, School Keshopur, P.S.- Jamalpur, District- Munger.
2. Kriti @ Teju, D/o Manoj Kumar, minor daughter under guardianship of her mother.

... .. Respondents

Appearance :

For the Petitioner	:	Mr.Abhay Kumar Singh, Advocate
For the opposite party	:	Mr.Ranjan Kumar, Advocate
For the Stat	:	Mr. Akhileshwar Dayal, APP

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

10 01-07-2022 Heard Mr. Abhay Kumar Singh, learned counsel for the petitioner, Mr. Ranjan Kumar, learned counsel for the opposite party no. 2 and learned A.P.P. for the State.

The matter has been heard for final disposal. By the impugned judgment/order dated 11.05.2018 the learned Principal Judge, Family Court, Munger has been pleased to direct the husband – opposite party to pay a lump sum of Rs. 25,000/- towards litigation cost as well as Rs. 10,000/- per month towards maintenance of the applicant-wife. The learned Principal Judge also awarded a sum of Rs. 5,000/- per month towards maintenance of the daughter, but this Court has been informed that unfortunately the daughter is no more. The maintenance



amount has been directed to be paid with effect from 02.05.2016.

Mr. Abhay Kumar Singh, learned counsel for the petitioner has assailed the impugned order mainly on the ground that the amount of Rs. 10,000/- per month awarded to the wife as maintenance is excessive. Learned counsel submits that in fact the wife of the petitioner is not willing to live with the petitioner.

It is further submitted that wife of petitioner is earning from tuition but admittedly in course of evidence no proof of her income or running of a coaching centre for students could be brought.

Learned counsel submits that the petitioner was at the relevant time an Assistant Locomotive Driver in the Railways and according to his salary slip (Exhibit 'A') he had a gross pay of Rs. 39,404/- in the month of October 2017. Presently his salary is above Rs. 50,000/- per month.

The application has been contested by learned counsel for the opposite party no. 2 who has been provided legal aid to contest this case. Learned counsel submits that the impugned order is a well discussed order and in fact there is an admitted position that the petitioner is having a salary of over Rs. 50,000/- per month presently. Exhibit 'A' which is the salary slip of the



petitioner was showing his salary for the month of October 2017 as Rs. 39,404/-.

Learned counsel submits that in catena of judgments of the Hon'ble Supreme Court it has been held that the wife must get a maintenance commensurate to meet the expenses which will be in consonance with the status of her husband and his livings in the same standard.

It is submitted that by no stretch of imagination the maintenance amount of Rs. 10,000/- which is almost one fifth of the salary of the petitioner may be said to be excessive.

Lastly, it is submitted that the petitioner had obtained an order of stay from this Court on the condition that he will pay a sum of Rs. 8000/- to opposite party no. 1 & 2 directly in the saving account of opposite party no. 1 commencing from the month of February, 2019, which was to be paid by 10th of February 2019, but learned counsel has instruction to say that the petitioner has not paid the said amount of Rs. 8000/- per month so far.

Learned A.P.P. for the State has also opposed the application.

This Court has heard learned counsel for the parties and perused the entire records. There are some admitted facts of the case. The petitioner and opposite party no. 1 are the husband and wife respectively. The petitioner joined as Assistant Loco Pilot in



Railways on 12.07.2010 and in course of his cross examination he had stated that his gross pay for the month of August, September and October was Rs. 45,234/-; Rs. 47,345/- and Rs. 39,404/- respectively. The evidence further discloses that the father of opposite party died on 15.07.2013. The opposite party has examined herself in the learned court below. She *inter alia* stated that she was being tortured by her husband and in this regard she had written an application against her husband. This Court further finds from the previous order-sheets of this case that on 21.10.2019 when the petitioner and the opposite party both were present in court, the wife-opposite party refused to return to the matrimonial home as she carried bad memories of assault. Admittedly the petitioner is getting over and above Rs. 50,000/- per month as salary. His father was also a railway employee, therefore, he has no other financial burden of his family. Under these circumstances, this Court finds that the amount awarded as maintenance to the wife-opposite party by the learned Principal Judge, Family Court, Munger cannot be said to be excessive. This Court, therefore, finds no reason to interfere with the impugned order.

The opposite party may seek enforcement of the order in accordance with law including by presenting this order to the employer of the petitioner requesting them to deduct the amount of



maintenance payable to the wife – opposite party and remit the same in her account every month. If any such request is made by the wife–opposite party to the employer of the petitioner, the same will be looked into and steps will be taken to remit the amount awarded by the court below to the opposite party in her account after deducting the same from the salary of the petitioner.

Let it be recorded that Mr. Abhay Kumar Singh, learned counsel for the petitioner has informed this court that the petitioner has been paying Rs. 8000/- per month to the wife–opposite party. This is required to be looked into by the learned court below while enforcing the order of the court.

The Revision Application has, thus, no merit. It is dismissed accordingly.

Let the Lower Court Records be sent back to the learned court below.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

