

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.816 of 2018

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

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Md. Taufik @ Md. Taufique Alam, S/o Late Md. Momin Sidhiki, R/o Vill.-
Laitha, P.S.- Basantrai, District- Godda. At present R/o Basantrai, P.S.-
Basantrai, District- Godda Jharkhand.

... .. Petitioner

Versus

1. The State of Bihar
2. Bibi Naubhar Ara, W/o Md. Taufik @ Md. Taufique Alam, D/o Md. Hadish Alam,
3. Sadiya Parvin, D/o Md. Taufik @ Md. Taufique Alam, Under Guardianship of his mother namely Bibi Naubhar Ara, R/o Mohalla- Aliganj, P.S.- Banka, District- Banka.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Ajay Mukherjee, Advocate
For the Respondent/s : Mr.Manoj Kumar – 1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 07-07-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner is aggrieved by and dissatisfied with the order dated 10.05.2018 passed by learned Principal Judge, Family Court, Banka in Miscellaneous Case No. 79 of 2013/Tr. No. 07 of 2018 whereby and whereunder the petitioner was directed to pay Rs. 10,000/- to opposite party no.2 per month for maintenance of opposite party no. 2 and her female child from the date of order.

Learned counsel for the petitioner submits that no doubt the petitioner was earlier running a welding shop



employing three persons there but his submission is that the said welding shop did not earn sufficient income so he had to close this shop and presently he is earning by providing tuition and his income is in between Rs. 10,000-15,000/- per month. It is, thus, his submission that award of Rs. 10,000/- per month as maintenance to the wife-opposite party no. 2 is excessive and is required to be reduced.

On the other hand, learned A.P.P. for the State has drawn the attention of this court towards the evidences discussed in the impugned judgment. On behalf of the petitioner only one witness who happened to be the son of his brother-in-law was produced as O.P.W.1. He admitted that the applicant-wife is the legally wedded wife of this petitioner. He deposed that the petitioner has got one and half bigha of land. He admitted that the petitioner is engaged in giving tuition to the children but he had no idea of the income of the petitioner. This witness asserted that the petitioner had a got a grill shop but he says that the said shop was closed about 10-12 years ago. This witness further admitted that the land on which he was doing the work of making of gate and grill belongs to him and the same is still with him. He further disclosed that this petitioner has entered into another marriage with a lady and there is one



daughter from this opposite party no. 2. It appears that the opposite party himself did not come forward to depose in course of evidence and learned court below has drawn an adverse inference from this saying that had he come in the witness box then information relating to his income could have been extracted from him. The Court has come to a conclusion that the petitioner was running a gate and grill shop on his own commercial land.

In the totality of the materials available on the record, the learned Principal Judge, Family Court had directed the petitioner to pay a sum of Rs. 10,000/- per month to the opposite party no. 2. This Court finds from the materials on the record that the learned Principal Judge, Family Court has duly appreciated the materials on the record and has rightly drawn an adverse inference on account of the withholdment of the present petitioner in course of evidence. The witness adduced on behalf of the present petitioner has admitted about the availability of commercial land with the petitioner on which he was running his shop of gate and grill. The applicant has stated that the petitioner is running the said shop and he is a teacher at Fatehpur from where he is earning a salary of more than Rs. 40,000/-. Had the petitioner presented himself in the witness



box there to get examined and cross-examined, he could have been tested and the veracity of his statement in his reply could have been examined. Since he has not come in the witness box, there is no reason as to why the evidence of his wife be not given due weightage. The claim of the wife that the petitioner is running a shop and he is also drawing salary of Rs. 40,000/- per month as a teacher remained uncontroverted.

In the circumstances, this Court does not find any illegality or infirmity with the impugned order. This Court, therefore, refuses to the same.

This application is dismissed.

The learned Principal Judge, Family Court shall enforce the order.

(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'.

