

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.326 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District- Jamui

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Kamaldeo Ray, Son of Sri Surendra Roy @ Surendra Kumar Roy Resident of Village - Lakhanpur, P.S. and District - Jamui at present posted as C.R.P.F. Fitter at Suratgarh, P.O. and P.S.- Suratgarh, District - Sriganganagar (Rajasthan).

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sunita Devi Wife of Sri Kamladeo Roy Daughter of Rajaram Rawat, Resident of Village - Lakhanpur, P.O., P.S. and District - Jamui, At present residing at Village and P.O.- Mallehpur, District - Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prakash Mahto, Adv.
For the Respondent/s : Mr.Md. Mushtaque Alam, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 30-06-2022 Heard learned counsel for the petitioner and learned APP for the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 28.01.2020 passed by the learned Principal Judge, Family Court, Jamui in Maintenance Suit No.187M/2014 under Section 125 Cr.P.C. whereby and whereunder he has been pleased to direct the petitioner to pay a sum of Rs.7000/- per month as maintenance to the opposite party no.2 from the date of application i.e. 20.11.2014 and further petitioner has been directed to pay current maintenance allowance before 10th day of each and every succeeding month



and further directed to pay the arrear of the maintenance allowance within one year in twelve installments and further directed that if the petitioner is giving any amount to the opposite party no.2 as a maintenance by the order of Hon'ble Court or by any court then the said amount will be adjusted in the maintenance amount.

It appears on perusal of the records that the learned Principal Judge, Family Court, Jamui has passed the impugned order directing the petitioner to pay a sum of Rs.7000/- per month to the opposite party no.2 from the date of the application. The petitioner has been directed to pay current maintenance allowance before 10th day of each and every succeeding month. It has also been ordered that any amount paid to the opposite party no.2 by the petitioner towards maintenance by virtue of the order of the Hon'ble Court or any other court shall be adjusted in the maintenance amount.

It further appears that the petitioner was directed to pay Rs.3500/- per month to the opposite party no.2 in Cr.Misc.No.5412 of 2015 and the petitioner claims that he is paying the said amount in terms of the order of the Hon'ble High Court.

In course of argument, learned counsel for the



petitioner submits that presently the petitioner is getting Rs.35,000/- per month as salary. The only issue which has been raised to challenge the impugned order is that the learned Principal Judge has awarded the maintenance amount with effect from the date of the application. Learned counsel submits that it should be modified and the petitioner be made liable to pay the maintenance amount with effect from the date of the order i.e. 28.01.2020.

Learned APP for the State has opposed this application. It is submitted that the petitioner has been neglecting his wife immediately after solemnization of the marriage on 07.03.2011. The wife filed a case being Mahila P.S. Case No.67 of 2014 and she has to spend her life in maike due to the fear to her life in the hand of the petitioner. At the relevant time, the salary of the petitioner was Rs.25,000/- to 27,000/-. The maintenance application was filed on 20.11.2014. The petitioner has filed a divorce petition being Case No.160/2014 which is still pending.

Learned APP submits that presently the petitioner is getting Rs.35000/- as salary and so far as the quantum is concerned, he is not contesting the same. It is submitted that prayer of the petitioner to make the order of the learned



Principal Judge, Family Court, Jamui applicable with effect from the date of the order is contrary to the settled law that normally the maintenance allowance is to be allowed with effect from the date of the application.

Having regard to the submissions noted hereinabove, this Court finds that the submission to modify the order of the learned Principal Judge, Family Court, Jamui and make it applicable with effect from the date of the order is wholly misconceived and is not fit to be accepted. If the petitioner is paying Rs.3500/- per month to the opposite party no.2 the said amount shall certainly be adjusted from the amount due in terms of the order of the learned Principal Judge, Family Court, Jamui.

No interference is required in the impugned order. The revision application is dismissed.

(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'.

