

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.380 of 2021

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

SACHIDANAND MEHTA Son of Late Devi Lal Mehta Resident of Village - Kashnagar, Police Station - Sonewarsa Raj, District - Saharsa. At present Address - Mohalla - Rani Sankarpura, Police Station - Gangaur, District - Khagaria.

... .. Petitioner

Versus

1. The State of Bihar
2. Prabha Devi Wife of Sachidanand Mehta Resident of Village - Kashnagar, Police Station - Sonewarsa Raj, District - Saharsa. At present Address - Mohalla - Gangjala, Ward No. -15, Police Station - Who, District - Saharsa.

... .. Opposite Parties.

Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.B.N. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 01-11-2022 No one appears on behalf of the petitioner.

Considering that the matter relates to maintenance of a neglected woman whose application for enhancement of maintenance has been disposed of after ten years and it requires earliest consideration by this Court, this Court deems it just and proper to consider the Revision Application on the basis of the averments made and the grounds raised in the application. It appears on perusal of the records that this revision application has been filed for setting-aside the order dated 04.11.2020 passed in Misc. Case No. 168/2010 enhancing the maintenance amount earlier fixed in Maintenance Case No. 58/1990, by the learned Principal Judge, Family Court, Saharsa.



By the impugned order, the learned Principal Judge has been pleased to enhance the maintenance amount from Rs. 1,500/- to Rs. 5000/- per month. This Court finds that the application for enhancement was filed as back as on 28.09.2010 under Section 127 Cr.P.C. A notice was issued to the husband-petitioner whereafter he appeared on 23.03.2015 and thereafter the matter remained pending for another five years.

On behalf of the husband-petitioner, a plea was taken that he was an old man and is getting only a monthly pension of Rs. 10,000/- per month but as it appears from the impugned order itself the learned court called for an information from the Treasury Officer, Khagaria who informed that the husband-petitioner was getting Rs. 25,564/- as pension amount.

Having taken note of the pension amount of Rs. 25,564/- the learned court below has enhanced the maintenance amount from Rs. 1,500/- to Rs. 5,000/- per month which has been made applicable from the date of appearance of the husband-petitioner i.e. 23.03.2015.

In the revision application no plausible ground has been raised to challenge the enhancement. A vague plea has been taken that the learned court below passed the order merely on the basis of pension amount payable to the petitioner without



making an inquiry relating to the petitioner as to maintenance of his second wife as according to the petitioner keeping a female may be immoral but not an illegal. The kind of ground raised in the revision application is only liable to be deprecated. The fact that the petitioner is getting pension amount of Rs. 25,564/- per month is not in dispute, therefore this Court finds no reason to interfere with the impugned order as regards the enhanced amount.

At this stage, this Court finds that enhanced amount has been made applicable with effect from 23.03.2015 whereas the application seeking enhancement was filed on 28.09.2010. In the light of the judgment of the Hon'ble Supreme Court in the case of **Rajnesh v. Neha & Ors. reported in (2021) 2 SCC 324**, the learned court below was required to allow the enhanced amount with effect from the date of the application. This Court is unable to understand as to why the enhanced amount would be made applicable from the date of appearance of the husband. Considering that the provision for award of maintenance under the Code of Criminal Procedure is a piece of social legislation and it is meant to provide succor to the neglected women who is not having any independent source of income, this Court is of the considered opinion that the enhanced amount would be



payable by the petitioner to the opposite party no. 2 with effect from the date of application i.e., 28.09.2010.

This application is, thus, disposed of with the aforesaid observations and modifications.

Let the learned Principal Judge, Family Court, Saharsa execute the impugned order as expeditiously as possible. The enhanced amount shall be calculated from the date of application.

(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'.

