

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.324 of 2018

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

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Sheikh Abdul Sanowar @ Sanovar son of Late Abdul Jabbar Resident of
Milki Gajipur, Police Station - Tarapur, District - Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Gul Afsha Parveen wife of Sheikh Abdul Sanowar
3. Ashika Parveen daughter of Sheikh Abdul Sanowar
4. Sartaj Alam son of Sheikh Abdul Sanowar
5. Rehan Alam son of Sheikh Abdul Sanowar Opposite Party nos. 3 to 5 their
natural guardianship are their mother , All residents of Milki, Gajipur, Police
Station - Tarapur, District - Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-07-2022 No one appears for the petitioner. Mr. Akhileshwar
Dayal, learned APP for the State is present.

Since this case is of the year 2018, this Court would
proceed to consider the matter on the basis of the materials
available on the record.

Petitioner in the present case is aggrieved by and
dissatisfied with the order dated 27.01.2018 passed in
Maintenance Case No.147 of 2014 by the learned Principal
Judge, Family Court, Munger by which the learned Principal
Judge, Family Court has been pleased to direct the petitioner to



pay a sum of Rs.2000/- to his wife-opposite party no.2 and Rs.1000/- each to three minor children (opposite party nos. 3 to 5) per month as maintenance allowance from the date of filing of the application i.e. 17.09.2014.

It appears from the pleadings of the parties that the wife-opposite party no.2 preferred an application under Section 125 Cr.P.C. in the Family Court at Munger seeking maintenance for herself and her three minor children (opposite party nos.3 to 5) from the date of filing of the application. The marriage between the present petitioner and the opposite party no.2 was performed on 28.04.2008 and out of the wedlock two sons and one daughter were born. The allegation is that against the demand of dowry the opposite party no.2 had registered a criminal case against the petitioner under the Dowry Prohibition Act as well as the maintenance case. The husband of the opposite party no.2 appeared in that case and assured her in the court that he will keep and maintain her as well as the children with love and care and the matter was compromised on 19.05.2013, but later on the petitioner-husband and his family members tried to kill her by sprinkling kerosene oil. She submitted that the petitioner-husband is doing tyre repairing work having monthly income of Rs.15,000/-, hence, the



opposite parties be allowed a maintenance of Rs.8000/- per month.

The case of the applicant-wife was contested by her husband. According to him, the opposite party no.2 had herself left the matrimonial home without any rhyme and reason and she was not ready to live with the husband-petitioner. He submitted that he was a daily labourer and by doing the repairing work, he hardly earns Rs.3000-4000 per month.

It appears that the learned Principal Judge, Family Court found that there is no dispute on the point of marriage and on the parentage of the children. In support of the claim, the parties had led evidences. The wife has brought three witnesses. She examined herself also and deposed that her husband deals with tyre business having an earning of Rs.10,000/- per month. She was supported by the other two witnesses. On behalf of the husband again three witnesses were examined but the opposite party did not come forward to examine himself. The witnesses who supported the husband-petitioner deposed that the petitioner was earning Rs.200-250 per day.

The learned Family Court has fixed the amount of maintenance taking into account on the one hand the requirement of the wife and the minor children and at the same



time the capacity of the husband-petitioner to earn and his other commitments. The Family Court has come to a finding that the husband is having a monthly income of about Rs.20,000/-. Despite this he has allowed only a sum of Rs.2,000/- per month to the wife (opposite party no.1) and Rs.1000/- each to the minor children (opposite party nos.2, 3 and 4) per month.

On perusal of the entire materials on the record as discussed hereinabove, this Court first of all finds that the opposite party withheld himself and did not present himself for examination and cross-examination. This will definitely go against him and the court will draw an adverse inference against him. Even the witnesses who supported the husband-petitioner have deposed on their own that the petitioner had got at least 200-250 rupees per day earning but the applicant-wife has deposed that the income of her husband is at least 10,000/- per month which has remained uncontroverted by this petitioner as he did not place himself in the dock to test the veracity of his statement in his reply/pleading. He does not deny that opposite party no.1 is his wife and opposite party nos.2, 3 and 4 are his minor children. The court has hardly awarded them altogether Rs.5000/- for their maintenance. The amount awarded to them is a meagre amount and this Court finds that even with this much



amount it is difficult to sustain in the present day's economic condition.

In the totality of the circumstances, this Court finds no reason to interfere with the impugned order in its revisional jurisdiction. This revision application is dismissed.

The opposite parties may proceed to enforce the impugned 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'.

