

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.662 of 2018

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

Md. Mukkadar Reyajuddin Ansari @ Md. Mukkadar Reyajuddin Son of Md. Salim Ansari, resident of Village- Parsagarh, Post Office Parsagarh Bazar, Police Station- Ekma, District- Saran Chapra.

... .. Petitioner

Versus

1. The State Of Bihar
2. Sajada Khatoon, daughter of Md. Sabruddin, presently residing at Village- Olhapur, Police Station- Marhaurah, District- Saran, Chapra.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Parijat Saurav, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Md. Anish Akhtar, Advocate Mr. Mahtab Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

- 3 23-08-2022 Heard learned counsel for the petitioner and learned counsel for the opposite party no. 2.

The petitioner in the present case is aggrieved by and dissatisfied with the judgment dated 05.02.2018 passed by learned Principal Judge, Family Court, Saran at Chapra in Maintenance Case No. 24 of 2008 by which the petitioner is directed to pay maintenance amount of Rs.4,000/- per month to the opposite party no. 2.

Learned counsel for the petitioner submits that on a bare reading of the impugned judgment, it would appear that there was no evidence before the learned court below to take a view that the petitioner has got sufficient income from a cloth



shop which is established in Dhanbad.

Learned counsel points out that at one stage, the learned court below has recorded that no documentary evidence is available about the income of the opposite party-husband on the record and that the opposite party-husband has himself admitted that he is a mechanic of bicycle.

It is further pointed out that the opposite party no. 2 concealed her actual salary which she was receiving at the relevant time as contractual *panchayat* teacher. She disclosed to the learned court below that her salary would be about Rs.5000/- to Rs.6000/- per month whereas the information received on a Right to Information application discloses that the O.P. No. 2 was posted as a *panchayat* teacher in the Urdu Primary School, Bhualpur with effect from 30.12.2010 and upto October, 2013 her salary was Rs.9,000/- per month. It is submitted that in the light of the judgment of the Hon'ble Supreme Court in the case of **Rajnish vs. Neha & Ors.** Reported in **(2021) 2 SCC 324**, it is a case of making false statement by way of pleading in the learned court below.

Learned counsel further submits that the learned court below has not even taken into account the income of the opposite party no. 2 while fixing the maintenance amount of



Rs.4,000/- per month for the applicant-wife.

It is lastly submitted that on the face of the admitted materials, the opposite party no. 2 has got independent income which is sufficient to maintain herself.

Learned counsel for the opposite party no. 2 has though defended the impugned judgment but it is not denied that the opposite party no. 2 is working as a *panchayat* teacher and in the year 2010-2013 her salary was Rs.9,000/- per month.

Having heard learned counsel for the petitioner and the opposite party no. 2 as also on perusal of the records, this Court finds that the learned court below has not at all recorded any finding as to the income of the petitioner. The Court has proceeded to fix Rs.4,000/- per month as maintenance without taking into consideration the amount of salary which the opposite party no. 2 was already getting by way of her independent income.

This Court agrees with the submission of learned counsel for the petitioner that the opposite party no. 2 had not disclosed correctly her salary before the learned court below. As a result of this, the impugned order cannot sustain the test of law and is liable to be set aside.

The impugned judgment is, therefore, set aside and



the revision application is allowed.

Since the opposite party no. 2 is herself employed and this Court has been informed that presently her income as a teacher is more than Rs.25,000/- per month, this Court finds no reason to remand this matter.

This application stands disposed of accordingly.

(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'.

