

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1198 of 2016

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

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Md. Sohrab Ali Son of Late Md. Suleman Resident of Village-Seiz Tola,
Hasimpur, P.S. Barari, District-Katihar

... .. Petitioner

Versus

1.State Of Bihar.
2.Ajanoor Khatoon D/O Md. Muzaffar Ali, W/O Md. Sohrab Ali, residing at
Village Charkhi, P.S. Korha, District- Katihar.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.
For the State : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 15-11-2022 No one appears on behalf of the petitioner.

Considering that this matter relates to payment of maintenance to a neglected women and this revision application has remained pending since the year 2016 and at this stage no representation is made on behalf of the petitioner, this Court deems it just and proper to consider the revision application on its own merit and dispose it of.

The petitioner is aggrieved by and dissatisfied with the order dated 24.06.2016 passed by the learned Principal Judge, Family Court, Katihar in Maintenance Case no. 392/2015. On perusal of the impugned order it would appear that the applicant- wife brought the application seeking maintenance alleging inter alia that after one month of her marriage, her husband and his family members started demanding Rs. 3,00,000/-. It is alleged that they used to assault the



applicant and deprived her of foods for several days. She claimed that her husband is appointed as a Government Assistant Teacher at Adarsh Middle School, Gurubazaar, P.S. Barari, District- Katihar. On 15.07.2015, the O.P. ousted the petitioner after keeping all her belongings and since then the applicant- wife was living at her parent's house. She also claims that she has no independent source of income whereas her husband has got landed property and he earns Rs. 15,00,000/- per annum.

The learned Principal Judge has recorded that notice were sent to the Opposite Party through registered post as well as nazarat and notice was served but he did not turn up then by order dated 15.02.2016 the case has proceeded ex-parte.

The applicant- wife supported her case in the learned court below. She proved that her husband is a teacher in government school and earns Rs. 15,000- 16,000 salary. In ultimate analysis, the learned Principal Judge fixed a maintenance of Rs. 3,000/- per month payable from the date of the order.

In the revision application a ground has been taken that no notice was served upon the petitioner and therefore no proper opportunity was given to him. The petitioner claimed that he had divorced the O.P. no. 2 as per Muslims rites and customs and that the O.P. No. 2 is legally wedded wife of another person.

This Court finds that a completely vague statement has been made that recently the petitioner has come to know that prior to



the marriage of the petitioner, the O.P. No. 2 married with another person without seeking divorce from him and suppressing this fact, she married with the petitioner.

On perusal of the entire materials available on the record, this Court finds that save and except a bald statement that the O.P. no. 2 had married to another person, the petitioner has not made any significant statement even as to the prima facie look into the statement of the petitioner. The petitioner has not denied that he is a teacher in a government school and his salary is about Rs. 50,000-60,000 per month.

So far as the ground taken that no opportunity of hearing was given to the petitioner, the fact remains that in the impugned judgment learned Principal Judge has recorded that notice was served upon the opposite party.

Considering that the amount awarded is a paltry sum of Rs. 3,000/- per month and even for this amount the applicant- wife is contesting this case for last seven years after filing maintenance case, this Court is not inclined to interfere with the impugned order on this ground. Principle of natural justice cannot be put in a straight jacket formula. The applicant- wife is a victim and Section 125 Cr.P.C. is a piece of social legislation which has been brought to provide succor to the neglected women. A person like the petitioner who is earning a salary of Rs. 50,000- 60,000/- per month cannot be allowed to make a complaint on the quantum of maintenance allowed



by the learned court below.

This revision application has thus no merit. It is dismissed accordingly.

The learned Principal Judge, Family Court, Katihar, is directed to enforce the impugned judgment/ order as expeditiously as possible. If it is found that the petitioner has not paid the maintenance amount so far and in the name of pendency of the revision application he has deprived his wife from getting the maintenance amount, he would be liable to pay a cost of Rs. 25,000/- which would be payable to the applicant-wife. The learned court below shall ensure realization of this amount.

(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'.

