

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.262 of 2018

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

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Ajay Kumar S/o Karu Prasad , R/o Naya Bazar Dalpatti, P.S.- Lakhisarai,
District- Lakhisarai.

... .. Petitioner

Versus

1. The State of Bihar
2. Sneha Kumari W/o Ajay Kumar D/o Late Pramod Shankar Sah, R/o Naya Bazar Dalpatti, P.S.- Lakhisarai , District- Lakhisarai. At present Rajiv Gandhi Chowk New Sishmahal Mirror P.S.- Kotwali, District- Munger.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Raj Kumar Choudhary, Advocate

For the Respondent/s : Mr.Ram Sevak Choudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 04-07-2022 Heard learned counsel for the petitioner and learned
counsel for the opposite party no. 2.

Petitioner, in this case, is aggrieved by and dissatisfied with the order dated 11.09.2017 passed by the learned Principal Judge, Family Court, Munger whereby and whereunder the learned court below has allowed the petition under section 125 Cr.P.C. of the opposite party for her maintenance as Rs. 10,000/- per month and the same is made effective from the date of filing of the application i.e. 27.05.2014 in Maintenance Case No. 86/2014.

Learned counsel for the petitioner submits that in the learned court below the petitioner had admitted that the



opposite party no. 2 is the legally wedded wife of the petitioner but he denied the allegation of demand of dowry. He also denied his second marriage with another girl and claimed that he was ready to keep his wife but despite all the submissions the learned court below has awarded the maintenance in favour of the wife - opposite party no. 2.

It is his further submission that the wife - opposite party no. 2 is herself earning and she is working in a boutique shop. She has also shares in her paternal's property. As regards the income of the petitioner, it is admitted that he is a railway employee and at the relevant time his salary was Rs. 29,699/-.

On the other hand, learned counsel for the opposite party no. 2 has opposed this application. It is submitted that the petitioner being husband of opposite party no. 2 has neglected her. The opposite party no. 2 had filed a matrimonial case for restitution of her conjugal rights is also pending. The husband had brought a matrimonial case for divorce and there is no proof of income of the wife - opposite party no. 2.

Learned counsel for the opposite party no. 2 has submitted that at this stage both the matrimonial cases i.e. one filed by the wife and another filed by the husband have been decided. The application for restitution of conjugal rights has



been allowed and the petition seeking annulment of marriage by decree of divorce has been rejected. It is submitted that in course of evidence before the learned Principal Judge, Family Court at Munger, the wife - opposite party no. 2 examined two witnesses whereas the opposite party examined himself being O.P.W.1. In his examination in chief the husband deposed that his salary is Rs. 29,000/-, but in cross examination he has stated that he worked at Danapur Division being a Junior Engineer since 2013 and is getting Rs. 40,000/- per month as salary. His father is in government service and his two other brothers are also in government service. He has also no knowledge about the income of his wife. He was giving Rs. 3000/- per month as interim maintenance.

Learned counsel for the opposite party no. 2 submits that on the face of the materials present on the record the learned Principal Judge, Family Court, Munger has not committed any error in directing the husband – petitioner to pay a sum of Rs. 10,000/- to his wife (opposite party no. 2) from the date of filing of the application i.e. 27.05.2014.

I have heard learned counsel for the petitioner and learned counsel for the opposite party no. 2. On perusal of the materials on the record and the evidences which have been



discussed in the impugned judgment, it is evident that the husband – petitioner could not produce any evidence of income of his wife - opposite party no. 2. On the other hand, he admitted that he was getting a salary of Rs. 40,000/- per month at the relevant time. He had no other liability in the family. Under these circumstances if the learned family court has awarded a sum of Rs. 10,000/- only i.e. one fourth of his salary, no fault may be found with the same.

The petitioner has not paid the maintenance amount as awarded vide judgment dated 11.09.2017, even though there is no stay to the judgment under revision. At one stage he gave statement before this court that he is ready to keep his wife - opposite party no. 2 with full dignity and care and only for that reason the learned coordinate Bench of this court had decided to issue notice to opposite party no. 2, but even that statement made before this court seems to have been made only to keep the matter litigating by getting an order issuing notice to opposite party no. 2. The petitioner has never shown eagerness to keep his wife in terms of his statement made in this court as back as on 14.10.2019.

He has, thus, unlawfully deprived his wife from getting the maintenance amount of Rs. 10,000/- per month in



terms of the judgment.

Since no fault may be found with the impugned judgment, this Court would not interfere with the same. Considering the conduct of the petitioner in litigating the matter for about five years by getting a notice issued to his wife saying that he is ready to keep his wife with him, this court thinks it just and proper to direct the petitioner to pay cost of Rs. 30,000/- to his wife - opposite party no. 2 as litigation cost. The litigation cost shall be paid within three months from today.

Let the order of this court be communicated to the employer of the petitioner i.e. the Divisional Manager, Department of Railways, Danapur Division, Patna, where the petitioner was posted as Junior Engineer earlier to take steps by informing the present competent authority and the drawing and disbursing authority of the petitioner to deduct the entire arrears of maintenance till the month of July, 2022 in 12 (twelve) monthly installments after deducting the amount already paid by the petitioner during this period. From the month of August 2022 the drawing and disbursing authority of the petitioner shall deduct a sum of Rs. 10,000/- per month from the salary of the petitioner and remit it in the account of his wife - opposite party no. 2. O.P. No.2 shall provide her saving account number to the



concerned authority.

The petitioner shall himself bring this order to the notice of his employer within two weeks from today.

It is also open for the opposite party no. 2 to pursue this matter with the employer of the petitioner for deductions and remittances as stated hereinabove.

This application stands disposed off.

(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'.

