

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.79 of 2021

In
CRIMINAL MISCELLANEOUS No.15633 of 2014

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

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1. PRITI KUMARI wife of Manish Prakash, D/o Sri Siya Ram Singh Yadav Resident of Mohalla- Manikchand Talab, Anishabad, P.S.- Gardanibag, District- Patna.
 2. AYUSH PRAKASH minor son of Manish Prakash, under the guardianship of mother namely Priti Kumari Resident of Mohalla- Manikchand Talab, Anishabad, P.S.- Gardanibag, District- Patna.
 3. ANSH PRAKASH minor son of Manish Prakash, under the guardianship of mother namely Priti Kumari Resident of Mohalla- Manikchand Talab, Anishabad, P.S.- Gardanibag, District- Patna.

... .. Petitioner/s

Versus

MANISH PRAKASH son of late Sri Babu Nand Singh Resident of Mohalla- Ramlakhan Path Road no.1, Ashok Nagar, P.S.- Kankarbag, District- Patna.

... .. Respondent/s

with

CRIMINAL REVISION No. 1448 of 2019

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

SRI MANISH PRAKASH Son of Late Babu Nand Singh Yadav @ Late Babu Nand Singh Resident at Ram Lakhan Path, Ashok Nagar, Road No. 1, P.S.- Kankarbagh, District- Patna

... .. Petitioner/s

Versus

1. SMT. PRITI KUMARI Wife of Sri Manish Prakash, D/O - Sri Siya Ram Singh Yadav Resident of Manik Chand Talab, Anisabad, P.S.- Gardanibagh, District- Patna.
2. Ayush Kumar Son of Sri Manish Prakash Minor Represented through their Mother. Resident of Manik Chand Talab, Anisabad, P.S.- Gardanibagh, District- Patna.
3. Piyush Kumar Son of Sri Manish Prakash Minor Represented through their Mother. Resident of Manik Chand Talab, Anisabad, P.S.- Gardanibagh, District- Patna.

... .. Respondent/s

Appearance :

(In CRIMINAL REVISION No. 79 of 2021)

For the Petitioner/s : Mr. Gopal Govind Mishra

For the Respondent/s : Mr. Gouranga Chatterjee



(In CRIMINAL REVISION No. 1448 of 2019)

For the Petitioner/s : Mr. Gouranga Chatterjee

For the Respondent/s : Mr. Gopal Govind Mishra

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 19-05-2022 As both these applications arise out of the same judgment hence, with consent of the parties, they are being heard together and disposed of by this common order.

Heard learned counsel for the petitioners and learned counsel for the respondents.

Both these application have been preferred against the judgment dated 17.08.2019, passed by the learned Principal Judge, Family Court, Patna in Maintenance Case No.87(M) of 2012, whereby the learned Principal Judge awarded maintenance amount to the tune of Rs.4,000/- per month to wife/petitioner and Rs.1500/- per month each to two minor children, the total being Rs.7000/- per month.

Criminal Revision No.79 of 2021 has been preferred by Priti Kumari, who is estranged wife of petitioner of Criminal Revision No.1448 of 2019. Priti Kumari filed a maintenance case against her husband, Manish Prakash under Section 125 of the Cr.P.C. claiming maintenance of Rs.12,000/- per month along with litigation cost of Rs.15,000/- lump sum.

The case of both these petitioners, in brief, is that the marriage of Priti Kumari was solemnized on 24.11.2001 as per



Hindu rites and rituals. She was residing at her parental house since 02.03.2012. The reason behind living separately of Priti Kumari from her matrimonial house/husband is that her husband and in laws were pressurizing her to sell out the land acquired in her name from her parents and to give the consideration amount to them. When the same was refused by her, Manish Prakash, her husband, abused, assaulted and stopped giving food to her. Further case is that Priti Kumari blessed with two sons, Ayush Kumar and Piyush Kumar, who are also living with her. The further case is that her husband has sufficient land at his native village as well as having monthly income of Rs.10,000/- from rent of the house and also Rs.10,000/- per month out of tuition and coaching. She has no source of income to maintain herself as well as her both minor sons.

Manish Prakash, husband of Priti Kumari, filed his show cause before the learned Principal Judge stating therein that the petition filed by Priti Kumari is not maintainable in the eye of law and the same is fit to be rejected. He had purchased the land from his own fund in the name of Priti Kumari out of love and affection. They are living separately is false, fabricated and baseless. He is earning meager amount as an Advocate as after joining as an Advocate he was taken into custody. He has



no income from his ancestral property and some grains are annually received by him in proportionate of his share. Accordingly, it was prayed that Priti Kumari has no financial problem and is not entitled to get maintenance.

Learned counsel appearing for the wife-petitioner submits that the maintenance case was filed in the year 2012 and her relief was on the basis of market rate of the said year but it was decided on 17.08.2019. Hence, the maintenance allowed by the learned court below is meager and it should be enhanced. Her father is an old man having no source of income and she has also no source of income to maintain herself as well as her both minor sons. Her husband in the written statement filed before the learned court without disclosing his income has stated that he is an Advocate of Civil Court, Patna having little income. Accordingly, it is prayed that the order was passed without considering the income of her husband.

Per contra, learned counsel appearing on behalf of Mr. Manish Prakash (petitioner of Criminal Revision No.1448 of 2019) submits that the learned court below has found that the income of the petitioner is Rs.6000/- to 6500/- per month, but the petitioner was directed to pay Rs.7000/- per month as maintenance to his wife and two minor sons which is against



the finding of the learned court below. The petitioner does not have any land in his name and does not have any cash income from ancestral property and only some grains are received by him since he does not cultivate his land. Accordingly, it is prayed that the order passed by the learned court below is not sustainable and fit to be rejected.

After having heard both sides, perusing the materials on record as also the impugned judgment, in my considered opinion, both these applications are fit to be dismissed and dismissed as such.

The office is directed to transmit back the lower court records forthwith to the learned court concerned.

(Anjani Kumar Sharan, J.)

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