

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.915 of 2018

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

Dr. Syed Md. Nazib Bihari @ Md. Imran @ Nazeeb Bihari @ Mohd. Najeeb Bihari S/O Mozib Bihari, Residence Of 98/191-C-1, Mohalla- Kalumal Bagicha, Behind Rupam Talkies, Bekanganj, Dist.- Kanpur U.P.- 208001.

... .. Petitioner

Versus

1. The State Of Bihar
2. Syeda Tarranum Bano, W/o Dr. Syed Md. Nazib Bihari @ Md. Imran @ Nazeeb Bihari D/o Late Mahmudul Hassan, residence of Kalumal Bagicha, behind Rupam Talkies, Bekanganj, Dist.- Kanpur U.P.- 208001 At present Mohalla- Quazi, P.O. P.S- Sherghat, Dist.- Gaya, Bihar.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Awadhendra Kumar, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Jameel Akhtar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 25-07-2022 Heard learned counsel for the petitioner and learned counsel for the O.P. No. 2.

The petitioner in the present case is seeking setting aside of the order dated 28.03.2018 passed by learned Principal Judge, Family Court, Gaya in Misc. Case No. 53 of 2014 by which the learned court has allowed maintenance amount of Rs.4,000/- per month to the O.P. No. 2.

Learned counsel for the petitioner submits that the petitioner is practicing Unani medicines. It is submitted that the learned court below has fixed maintenance allowance of Rs.4,000/- without correctly assessing the income of the petitioner. It is also submitted that efforts are on to resolve the



matrimonial disputes amicably. In this connection, the order of the learned Co-ordinate Bench of this Court passed on 06.09.2017 in Cr. Misc. No. 34912 of 2014 (Annexure '3') has been referred to.

Learned counsel further submits that in terms of the order passed on 20.11.2014 in Cr. Misc. No. 34912 of 2014 by another learned Co-ordinate Bench of this Court, the petitioner is paying a sum of Rs.750/- per month to the O.P. No. 2.

On the other hand, learned counsel for the O.P. No. 2 submits that O.P. No. 2 is a neglected women. Her mother has recently died and she is alone. It is submitted that the petitioner is not even regularly paying that amount of Rs.750/- per month and in the name of amicable resolution of disputes, he wants to avoid his liability to pay Rs.4,000/- per month which is the amount fixed as maintenance allowance to the O.P. No. 2.

Having heard learned counsel for the petitioner and learned counsel for the O.P. No. 2, this Court finds that admittedly the petitioner and O.P. No. 2 are husband and wife respectively.

It is not in dispute that the O.P. No. 2 is residing in her *maika* after she was allegedly thrown out of her matrimonial home.



The learned court below has found that the applicant-wife had examined altogether 4 witnesses to substantiate her case and they have duly supported the case of the applicant-wife. The applicant witnesses were initially examined in an ex-parte hearing fixed by the court but later on the opposite party-husband appeared and the ex-parte hearing order was recalled and the opposite party-husband cross-examined AW 2, AW 3 and AW 4 but when the applicant witness no. 1 appeared in the court for her cross-examination then none appeared in court for her cross-examination. Even after deferring her cross-examination she was not cross-examined and a request was made by the opposite party-husband to pass an appropriate order.

This Court, therefore, finds that the evidence of AW 1 saying that her husband is earning Rs. 30,000/- to Rs.50,000/- per month has not at all been disputed. He owns two houses and earns a rent of Rs.15,000/- to Rs.20,000/- per month is also not disputed.

In such circumstance, this Court finds that the award of maintenance of Rs.4,000/- per month to the O.P. No. 2 is by no means excessive or exaggerated.

In the name of pendency of this revision application,



the petitioner has been avoiding his liability to pay the maintenance amount for last more than two years.

In the circumstances while dismissing this revision application, this Court directs the petitioner to pay the current as well as the entire arrears outstanding amount with the interest thereon at the rate of 12% per annum with a litigation cost of Rs.15,000/- to the O.P. No. 2.

The entire amount shall be realised from the petitioner by the learned court below in accordance with law expeditiously.

(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'.

