

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.914 of 2018

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

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Akhilesh Thakur, S/o Bharat Thakur @ Bharat Sharma, R/o Village-Kanbahari, P.S.-Aurangabad Muffasil, District-Aurangabad (Bihar)

... .. Petitioner

Versus

1. The State of Bihar
2. Pratima Devi, W/o Akhilesh Thakur, D/o Ram Pati Thakur
3. Riya Kumari
4. Lovely Kumari. Both 3 & 4 are minor daughter of Akhilesh Thakur and duly represented through her mother and natural guardian Pratima Devi-O.P. no.-2, all 2 to 4 are R/o Village-Sadipur Dihari, P.S.-Obra, District-Aurangabad (Bihar)

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Lal Bahadur Singh, Advocate
For the Respondent/s	:	Mr.Nagendra Prasad, A.P.P.
For the O.P. No. 2	:	Mr.Pratik Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 13-07-2022 It appears that the revision application has been preferred against the order dated 08.05.2018 passed by learned Principal Judge, Family Court, Aurangabad by which the court had rejected the application dated 13.04.2018 filed on behalf of the opposite party for allowing him to adduce evidence.

It is the case of the opposite party-petitioner that because of an order issuing warrant to enforce the order of interim maintenance dated 18.06.2016 he was afraid and had filed an application in the Hon'ble High Court which was still pending, he was ill, therefore, he could not do appropriate pairvi in his case in the Family Court. The impugned order shows that after giving



opportunity of five dates to the opposite party-petitioner to produce evidence when no evidence came the court closed the evidence of the opposite party and fixed the case for hearing.

The application preferred by the opposite party-petitioner was opposed on behalf of the applicant-wife. It was submitted that despite several opportunities granted to the opposite party to produce evidence he was not bringing evidence and had not paid the interim maintenance amount. The applicant-wife had already made final arguments on her application for maintenance but the opposite party-husband was not interested in allowing disposal of her application.

The learned court below has recorded that on 13.02.2018 an application was given on behalf of the opposite party-petitioner and the court had given him an opportunity to bring evidence but he did not comply with the said order, had not paid the interim amount of maintenance as a result whereof his application dated 21.03.2018 was rejected. The court also recorded that the opposite party-petitioner had not produced any medical document to show that he was ill. He had not produced any case number or other material to show that his application is pending in the Hon'ble High Court. The court, therefore, reached to a conclusion that the application dated 13.04.2018 was not fit to be maintained.



More than five years have gone thereafter and learned counsel for the petitioner is unable to say as to whether or not the final judgment has been passed in this case. The revision application nowhere discloses that against the interim order the petitioner had filed a case in this court. Again no case number has been provided in the revision application. At the same time, there is no prima-facie material to show that he was ill and for this reason he was unable to bring his evidence in the learned court below.

Under these circumstances, this Court finds no reason to interfere with the impugned order dated 08.05.2018 at this stage.

If the final judgment has been delivered in the maintenance case and it goes against the petitioner, in that case, if so advised, while challenging the final judgment in the maintenance case, he may take all such pleas which may be available to him. This order is being passed without prejudice to the rights and contentions of the opposite party nos. 2 to 4.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

