

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.70 of 2018

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

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Asgar Ansari S/o Jumrati Ansari, R/o Village- Pararia, Kalu Chowk, P.S.-
Sikti, District- Araria.

... .. Petitioner

Versus

1. The State of Bihar
2. Bibi Shahnaz Begam, W/o Asgar Ansari & D/o Mahiuddin Ansari, At
present residing at Village- Khoragachhi Momin Tola P.S.- Sikti, District-
Araria.
3. Superintendent of Police, Araria

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Rana, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

18 28-06-2022 Heard learned counsel for the petitioner. No one
appears for opposite party no. 2.

Mr. Pawan Kumar Chaurasiya, learned A.P.P. who has
been assigned this case is not present. This court has requested
Mr. Akhileshwar Dayal, learned A.P.P. to assist this Court.

Learned counsel for the petitioner submits that this
revision application has been filed against the judgment dated
24.11.2017 passed by the Principal Judge, Family Court, Araria
in Maintenance Case No. 2/2016 by which the learned Principal
Judge has directed the petitioner to pay a sum of Rs. 7000/- per
month from 04.01.2016 to the Opposite Party No. 2 for her
maintenance as also the arrears of entire maintenance



allowances within six months.

It is his submission that the petitioner has taken a plea in the learned court below that he has no source of income to maintain his wife. The children is said to be living with him. It is his further submission that opposite party no. 2 left the matrimonial home on her own, even as the petitioner is still willing to keep opposite party no. 2 as his wife with full dignity and care.

From the previous orders passed by this court, it appears that on 02.07.2019 when the matter was taken up for consideration a plea was taken on behalf of the petitioner that he has already transferred three and a half dhurs of land, which belonged to his share of the property, in the name of opposite party no. 2 and now he has no property and further that he is a poor labourer not earning much and, thus, the order to pay Rs. 7,000/- per month is exorbitant.

Learned counsel for the opposite party no.2 has taken a stand that the petitioner is a skilled artisan and does work on contract in Delhi and is earning his livelihood.

After noticing the contradictory stand taken by the parties, this court directed the Superintendent of Police, Araria to submit a detail report with regard to the properties belonging



to the petitioner and his family members including the father and mother. He was directed to provide the information with regard to income of the petitioner and the place where he earns his livelihood as also whether he has remarried.

Pursuant to the said direction the Superintendent of Police, Araria (O.P. No.3) has filed counter affidavit. In paragraph '6' of the counter affidavit a statement has been made that the valuation of the entire properties of the petitioner and his family members including father and mother as per assessment made by the C.O. Sikty Anchal comes to Rs. 3,55,000/- which includes the movable and immovable properties belonging to them. The affidavit also states that the petitioner has remarried with another lady namely, Shahzadi with whom the petitioner is living in Dehradun for his livelihood where he earns approximately a sum of Rs. 500/- per day being daily wages worker.

It further appears that one A.S.I. Jangli Mandal was sent to Dehradun for conducting inquiry and he has submitted his inquiry report to the Superintendent of Police, Araria. The inquiry revealed that the petitioner was working under a contractor engaged in construction of buildings and he being a



Raj Mistry was paid a sum of Rs. 525/- per day. A certificate obtained from the employer of the petitioner has been enclosed with his inquiry report.

The copy of the counter affidavit filed on behalf of the Superintendent of Police, Araria has been duly served upon learned counsel for the opposite party no. 2 as back as on 20.09.2019 but no rebuttal thereof has come on the record.

Learned counsel for the opposite party no. 2 has not appeared once again. The matter was earlier adjourned on 03.03.2020 because he was not present on behalf of O.P. No. 2.

Having regard to the submissions made on behalf of the petitioner and the materials available on the record in form of inquiry report placed by the Superintendent of Police, Araria at the instance of this Court, this Court is of the considered opinion that the maintenance amount of Rs. 7,000/- per month to opposite party no. 2 is required to be suitably reduced to bring it in tune with the income of the petitioner.

To this court, it appears that in the given income which has come on the record, the ends of justice may be served by modifying the quantum of maintenance from Rs. 7,000/- per month to Rs. 4,000/- per month. The impugned judgment is, therefore, modified to that extent. The petitioner shall be liable



to pay a sum of Rs. 4,000/- (Rupees Four Thousand only) per month to the opposite party no. 2 with effect from the date of filing of the application i.e. 04.01.2016.

The opposite party no. 2 may file an appropriate application for execution of the order.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

