

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.396 of 2018

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

Md. Salim @ Pappu son of Md. Alauddin, resident of Village- Manikpur,
Police Station- Manikpur, District- Araria.

... .. Petitioner

Versus

1. State Of Bihar
2. Bibi Mahinigar, wife of Md. Salim @ Pappu, Daughter of Md. Sadakat,
resident of Village- Ramrayee, P.O. Duba, Police Station- Jokihat, District-
Araria.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Anamul Haque, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. No. 2	:	Mr. Uday Bhanu Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 01-08-2022 Heard learned counsel for the petitioner and Mr. Uday
Bhanu Rai, learned counsel for O.P. No. 2.

The petitioner is aggrieved by and dissatisfied with the
Judgment dated 12.07.2017 passed by learned Principal Judge,
Family Court, Araria in Maintenance Case No. 364 of 2016 by which
learned court has directed the petitioner to pay maintenance
allowance of Rs.5,000/- per month to O.P. No. 2.

In course of hearing, learned counsel for the petitioner
admits that the petitioner has performed a second marriage. It is his
submission that the learned court below has not correctly decided the
quantum of income of the opposite party-petitioner. It is also his
submission that the judgment is an ex-parte judgment.

On the other hand, learned counsel for the applicant-wife,



who is O.P. No. 2 before this Court, submits that the learned court below took all steps in accordance with law to serve the notice on the opposite party-petitioner but it was the petitioner who avoided the notice and did not appear in the learned court below.

Learned counsel submits that the maintenance case was filed in the year 2016. The impugned judgment has been passed on 12.07.2017 but till date no payment is being made to O.P. No. 2. Under these circumstances, it is submitted that if the matter is remanded to the learned court below, the O.P. No. 2 would again suffer for several years. Prayer has been made to pass an appropriate order on the basis of the materials available on the record.

This Court has heard learned counsel for the petitioner and O.P. No. 2. By the impugned judgment the learned court below has allowed a maintenance amount of Rs.5,000/- per month only to the O.P. No. 2 from the date of filing of the application i.e. 23.11.2016. On perusal of the revision application, this Court finds that this petitioner has taken a stand that the O.P. No. 2 did not return to his matrimonial home and flatly refused to come back. She also lodged a criminal case against the petitioner under Section 498A IPC. On the quantum of his income, the petitioner has not at all disclosed his income either in his plea in the revision application or in course of hearing of the case before this Court.

This Court, therefore, is of the considered opinion that the petitioner is not coming clean before the Court and he is only



interested in somehow delaying the matter in order to deprive the O.P. No. 2 from getting her maintenance.

This Court is of the considered opinion that the learned court below has awarded a meagre amount of Rs.5,000/- per month to the O.P. No. 2 which cannot be said to be an exaggerated amount in the present days economic condition and price index of the country. Keeping in view this aspect and that more than 5 years have gone past from the date of passing of the judgment but the petitioner is not paying a single paisa to the O.P. No. 2, this Court finds no reason to interfere with the impugned judgment.

This revision application is dismissed.

Let the court below proceed with the recovery of the amount in terms of the impugned judgment.

(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'.

