

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.196 of 2018

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

Prabhat Kumar @ Chunnu Mishra @ Prabhat Kumar Mishra, S/o Late Dhruv
Dev Mishra, R/o Village- Mahuawa, P.S.- Kateya, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Anita Devi D/o Shiv Kumar Tiwary, R/o Village- Bariari Bhan, P.S.-
Mirganj, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms.Priyanka Kumari, Adv.
For the O.P.No.1	:	Mr.Akhileshwar Dayal, APP
For the O.P.No.2	:	Mr.Vyash Kumar Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 01-08-2022 Heard learned counsel for the petitioner, learned
counsel for the opposite party no.2 and Mr. Akhileshwar Dayal,
learned APP for the State.

Petitioner, in the present case, is seeking setting aside
of the judgment dated 02.12.2016 passed in C.I.S. Case No.-
Maintenance 249/2013 by the learned Principal Judge, Family
Court, Gopalganj.

By the impugned judgment, the learned court below
has allowed a maintenance allowance of Rs.4000/- per month to
the opposite party no.2 with effect from the date of application
i.e. 11.03.2010.

Learned counsel for the petitioner submits that the
learned court below has failed to assess the income of the



petitioner. It is her submission that in the learned court below the petitioner had produced Exhibit-A i.e. the job card under Gramin Rojgar Guarantee Scheme issued for the year 2008-09 to 2012-13 and had also produced Exhibit-B i.e. the ration coupon but both the exhibits were rejected by the learned Principal Judge, Family Court, Gopalganj for no plausible reason.

On the other hand, learned counsel for the applicant-wife, who is opposite party no.2 before this Court, submits that Exhibits-A and B were the managed documents which were sought to be brought by way of evidence before the learned Principal Judge. It is pointed out that the learned Principal Judge has categorically recorded in the impugned judgment that in the Exhibit-A there is not a single entry showing that the petitioner had been doing work under the scheme or had received any payment under the said scheme. Similarly, regarding Exhibit-B the learned court below found that the petitioner had failed to prove that the coupon contains the name and licence of the dealer and signature of the authority.

Learned counsel points out that in fact this petitioner is a medical practitioner and has a medicine shop from which he earns Rs.40,000/- per month. He has produced several



photographs showing that the petitioner is working as a medical practitioner and is treating the patients. It is submitted that in course of evidence he was unable to controvert the evidence of the applicant-wife that her husband is a private doctor.

Learned counsel for the petitioner is unable to controvert the submissions made on behalf of the opposite party no.2.

In the given facts and circumstances of the case, this Court finds that the plea taken by the petitioner in the learned court below on the strength of Exhibit-A and Exhibit-B respectively has rightly been rejected. The learned court below has allowed a meagre amount of Rs.4000/- per month to the opposite party no.2. This Court has been informed that the petitioner is not paying a single paisa to his wife.

By producing a certified copy of the order dated 15.06.2019 passed by the learned Principal Judge, Family Court, Gopalganj in Maintenance 59/10, learned counsel for the opposite party no.2 submits that on the said date, the learned court below had noticed that a sum of Rs.3,41,000/- was outstanding/on account of arrear of maintenance. The court had issued distress warrant against the petitioner but the said distress warrant has not been executed so far.



This Court, while dismissing the present revision application, directs the Superintendent of Police, Gopalganj to immediately execute the distress warrant, if any, issued by the learned Principal Judge, Family Court, Gopalganj in this case and produce the petitioner in execution thereof.

The learned Principal Judge, Family Court, Gopalganj shall proceed to recover the amount in terms of the impugned judgment.

If the order passed by this Court is not complied with by the Superintendent of Police, the same be reported to this Court by the learned Principal Judge for further action.

(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'.

