

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.811 of 2018

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

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1. Arvina Khatoon @ Bibi Arvina Khatoon , wife of Md Sayak @ Md Saheb
 2. Asrana Khatoon, D/o Md Sayak @ Md Saheb, Both R/o Vill.- Ghatta , P.S.- Jalalgarh, District- Purnea, Petitioner no.1 is the natural Guardian of Petitioner no. 2 she is minor.

... .. Petitioners

Versus

1. The State of Bihar
2. Md Sayek @ Md Saheb S/o R/o Vill.- Ghatta, P.S.- Jalalgarh, District- Purnea.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 07-07-2022 Heard learned counsel for the petitioners and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner in the present case is the wife of the opposite party no. 2. She filed an application under Section 125 Cr.P.C. in the court of learned Principal Judge, Family Court, Purnea for award of maintenance. After the parties appeared in the said case led their respective evidences.

The applicant-wife claimed that she has been thrown out of her matrimonial home. Her husband is engaged in contract work and he is also earning from sale of agricultural produce. The applicant-wife further deposed that her son had gone to Delhi and he had seen that his father/husband of the applicant was engaged



in contract works. In support of her claim she examined four other witnesses and all of them supported the case of the applicant-wife. The applicant-wife deposed that she earns by working in the agricultural field from time to time and earns Rs. 100/- on the day of work.

On behalf of the husband, his father deposed as opposite party witness no. 1. He alleged that his son was compelled to get married with the applicant-wife alleging that he had been in love with her. His wife was threatening him of false implication and despite all efforts taken to convince her when she did not mend her ways then her husband left her. A panchayati took place on 11.01.2015 in which it was agreed that the husband of the applicant will pay a sum of Rs. 75,000/- to the applicant-wife. Her husband paid a sum of Rs. 75,000/- to the applicant-wife in presence of the panches but she refused to acknowledge the receipt of the same. This witness claimed that the husband of the applicant is a rural daily wager and earns Rs. 150-200/- per day as wages.

The opposite party no. 2 is the husband of the applicant-wife who has also claimed that he is working as a labourer.

The learned trial court recorded a finding that both the parties are working as labourer. The applicant-wife had failed to produce any evidence to show that her husband was working as a contractor. The learned court below also found that the applicant-



wife had not produced any evidence with respect to the land which belongs to her husband.

In these circumstances, the learned Principal Judge, Family Court has awarded a sum of Rs. 1500/- per month to the applicant-wife and Rs. 1000/- per month to the minor daughter.

Learned counsel submits that even this amount is not being paid to the petitioners.

The opposite party has not appeared in this case to contest this application despite valid service of notice.

This Court has perused the records. In the facts of the present case and the materials on the record even if it is assumed that the husband of the applicant-wife is earning his livelihood through daily wages as an unskilled worker, his income would be fixed at least Rs. 10,000-12,000/- per month. The learned court below has awarded only Rs. 1500/- and Rs. 1000/- to his wife and minor daughter which seems to be on much lower side.

In the opinion of this Court, a reasonable approach is required to be adopted while fixing the amount of maintenance. In the present days of economic condition and the price index of the country award of such petty amount of Rs. 1500/- and Rs. 1000/- to petitioner nos. 1 and 2 respectively cannot be said to be a reasonable amount.

Keeping in mind all these aspects of the matter, this



Court thinks it just and proper to enhance the maintenance allowances to the petitioner nos. 1 and 2 from Rs. 1500/- and Rs. 1000/- to Rs. 2500/- and Rs. 1500/- respectively.

This Court interferes with the impugned judgment on the quantum of maintenance allowed to petitioner nos. 1 and 2 and modifies the same in terms stated hereinabove.

The opposite party no. 2 shall pay this amount with effect from the date of filing of the application i.e. 10.07.2015.

The learned Principal Judge, Family Court, Purnea shall enforce the order and ensure that the payment is made to the wife and minor daughter of opposite party no. 2 in terms of this order. For purpose of paying the arrears of maintenance, the learned Principal Judge, Family Court may fix suitable installment, if so required.

This application stands disposed of accordingly.

(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'.

