

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.822 of 2018**

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

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Md. Saddam @ Md. Saddam Hussain, S/o Masibul @ Md. Masibul, Resident of Village - Rampur, West Idgah Tola, P.S. Araria (Bairgachhi), District Araria.

... .. Petitioner

Versus

1. The State of Bihar
2. Bibi Shima Khatoon, D/o Sainuddin, W/o Md. Saddam Hussain
3. Bibi Sayma Pravin, D/o Md. Saddam Hussain under the guardianship of Opposite Party No. 2, Resident of Village Rampur, P.S. Araria, District Araria, At present Resident of Village Madhopara, P.S. and District - Araria.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Paknkaj Kumar Jha, Advocate Mr. Anil Prasad Singh, Advocate
For the Respondent/s	:	Mr.Md. Fahimuddin, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 22-07-2022 Heard learned counsel for the petitioner and Mr. Md. Fahimuddin, learned A.P.P. for the State.

Petitioner is aggrieved by and dissatisfied with the judgment dated 20th of March, 2018 passed by learned Principal Judge, Family Court, Araria by which the learned court below has been pleased to allow a maintenance allowance of Rs. 3,000/- per month to the wife-opposite party no. 2 and Rs. 1,000/- per month to the minor daughter of the petitioner and opposite party no. 2.

Learned counsel for the petitioner has assailed the



impugned judgment on the ground that the petitioner has income of Rs. 5,000/- per month only. According to him, in course of the deposition of the witnesses, it has come that the petitioner is a labourer working at Delhi and is ready to keep his wife and minor daughter with him.

Learned counsel submits that the petitioner is maintaining other family members also, therefore, the total amount awarded to the opposite party nos. 2 and 3 are excessive and the same is required to be reduced.

This Court has perused the impugned judgment. It appears that the marriage between the petitioner and opposite party no. 2 was performed on 30.06.2015. Out of their wedlock, a female child has born who is opposite party no. 3. The allegation is that due to demand of dowry by the petitioner and his family members, a matrimonial discord took place, cruelties were committed on the opposite party no. 2 and she was driven out of the matrimonial house. She has filed a complaint case under Section 498A of the Indian Penal Code. On the source of income, she has stated that her husband is having eight acres of cultivable land and he works as a contractor from which he earns Rs. 40,000/- per month.

The husband-opposite party denied the claim of the



applicant-wife in the learned court below. He submitted that he has no landed property and he works as a labourer.

In course of evidence, the applicant-wife has supported her case by producing three witnesses in her support. The opposite party also produced three witnesses. The learned Family Judge has considered the entire evidence on the record and recorded a finding that the applicant is a legally wedded wife of the opposite party and the opposite party has ousted her from her matrimonial house due to non-fulfillment of demand of dowry and that is the reason for the opposite party nos. 2 and 3 living in the parental house of the opposite party no. 2.

This Court has heard learned counsel for the petitioner and for argument say if his submission is taken to be correct, this Court come to a conclusion that even an unskilled labourer in a place like Delhi would not earn less than Rs. 300-400/ per day. The evidences are that he works as a contractor.

Be that as it may, this Court finds that the amount of Rs. 4,000/- allowed to opposite party nos. 2 and 3 cannot be said to be excessive. Even the petitioner is earning at the aforesaid rate an unskilled worker at Delhi his income cannot be assessed at any amount less than Rs. 10,000/- per month in the year 2018. He has not paid any amount to opposite party nos. 2 and 3 as



learned counsel for the petitioner is unable to come out with a statement that any amount has been paid by the petitioner. This shows his conduct of negligence towards his wife and the minor child.

This Court is, therefore, of the considered opinion that the revision application has no merit. It is, thus, dismissed with a cost of Rs. 15,000/- payable to the opposite party no. 2 together with the entire outstanding and current amount of maintenance in terms of the impugned judgment.

The learned Principal Judge, Family Court shall recover the entire amount as soon as possible.

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'.

