

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.775 of 2018

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

Kamrun Nesha @ Bibi Noor Jahan Khatoon, Wife of Md. Ataur Rahman, D/o S.K. Parman Ali, Resident of Village- Barharwa Lochansen, Police Station- Dhaka, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Md. Ataur Rahman, Son of Late Sheikh Yunus, Resident of Village- Lakhansen, Police Station- Dhaka, District- East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Dilip Kumar Tondon, Advocate
For the O.P.No.1	:	Dr. (Mrs.) Indihar Kumari, APP
For the O.P.No.2	:	Mr.Dhananjay Kumar No.2, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 31-08-2022 Heard learned counsel for the petitioner, learned counsel for the opposite party no.2 and Dr. Indihar Kumari, learned APP for the State.

Petitioner in the present case is seeking setting aside of the order dated 02.06.2018 passed by the learned Principal Judge, Family Court, East Champaran, Motihari in Matrimonial Case No.37 of 2013 by which the learned Principal Judge has directed the opposite party no.2 to pay a sum of Rs.2500/- per month only as maintenance allowance to the petitioner from the date of the order.

Learned counsel for the petitioner submits that the marriage between the petitioner and the opposite party no.2 was



performed about 38 years ago and from their wedlock three children were born but the opposite party solemnized the second marriage with another lady and from the said marriage also he has got several children. After the second marriage, the petitioner was ousted from the matrimonial house and since then she is living in her Naihar.

It is the further case of the petitioner that the opposite party no. 2 has 17 bighas of agricultural land, orchard of mango and lichi, a tractor and his earning is about Rs.25,000/- per month from the tractor. The petitioner submits that she is suffering from various old age disease and has no source of income. In such circumstance, she had moved before the learned court below for award of maintenance amount of Rs.10,000/- but the learned court below has awarded only a sum of Rs.2500/- per month which is not commensurate to the status of her husband and it is difficult for her to live with such a paltry amount.

It is further submitted that the petitioner being applicant in the learned court below had produced three witnesses in support of her case. She had also produced various documentary evidences one of which is to show the gift executed by the opposite party no.2 in favour of his second



wife.

Learned counsel for the opposite party no. 2 has opposed this application. It is submitted that the opposite party is 78 years old and at this stage he is not earning on his own. He has denied having agricultural land, orchard and the tractor. In course of argument, it is further submitted that the opposite party no. 2 has not executed gift deed in favour of second wife, rather it is a deed of family arrangement executed in respect of the land which were relinquished by the sister of the opposite party no. 2 in favour of his second wife.

Lastly, learned counsel for the opposite party no. 2 submits that the opposite party no. 2 would on his own offer to pay Rs.3000/- per month.

Learned APP for the State has virtually no say in this case which is in the nature of a private dispute between the petitioner and the opposite party no.2.

Having regard to the submissions noted hereinabove and the materials available on the record, this Court is of the considered opinion that in the present day's economic conditions, the maintenance amount is required to be enhanced to Rs.4,000/-. Although the opposite party no.2 has offered to pay Rs.3,000/- per month but this Court finds that he has not



come out on his own with clean hands and has not disclosed his complete assets before the Court. This Court has been informed that from the second marriage he has got six children and he is getting support from his children also whereas the materials available on the record reveals that this petitioner has no independent income and she needs support at this evening of her life.

The impugned judgment is, thus, modified to the extent that the opposite party no.2 shall pay a sum of Rs.4,000/- per month with effect from the date of the application under Section 125 Cr.P.C. The amount already paid by the opposite party no.2 to the petitioner on account of maintenance shall be allowed to be adjusted.

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'.

