

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1026 of 2018

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

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Sonu Choubey @ Surendra Kumar Choubey, S/o Jai Prakash Choubey, R/o Vill.- Shivpuri, P.S.- Buxar T, District- Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Soni Devi W/o Sonu Choubey, D/o Hari Shankar Ojha, R/o Vill.- Ojha Ke semaria, P.S.- Shahpur, Distt.- Bhojpur.

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Digvijay Kumar Ojha, Advocate
For the State : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 25-08-2022 Heard learned counsel for the petitioner and learned APP for the State.

Petitioner in this case is aggrieved by and dissatisfied with the judgment/order dated 21.06.2018 passed by the learned Principal Judge, Family Court, Ara in Maintenance Case No.94 of 2011. By the impugned order, the learned court below has allowed the application directing the petitioner to pay 33% (after necessary deductions) in the account of the applicant-wife every month.

The petitioner and opposite party no.2 are admittedly husband and wife. The allegation against the petitioner is that he had neglected his wife. In course of evidence, the applicant-wife



supported her case by producing herself and two other witnesses. The present petitioner who was opposite party in the learned court below did not produce any evidence. The petitioner does not dispute that he is employed in Indian Army and is getting salary out of his employment. The evidence has also come that the petitioner has got a three storied building from which he has got rent income and has got 6 bighas of cultivable land. On the other hand the evidence has come that the applicant-wife has no independent income.

In the impugned order there was a direction that the petitioner shall deposit 33% of his salary (after necessary deductions) every month in the account of his wife but he has not complied with the said direction.

Today, learned counsel for the petitioner has filed a supplementary affidavit in which it is stated that during pendency the parties have voluntarily entered into a compromise. The petitioner has entered the name of the applicant-wife in part-II order of his service book to save his matrimonial life. A copy of the joint compromise petition has been brought on record and this Court has perused the same. It is said to have been signed on 23.03.2021.

A perusal of the court's order shows that on



10.03.2021 the learned court below had directed the petitioner to deposit Rs.50,000/- in favour of his wife but there is nothing on record to show that the said order has been complied with. The reason for not pressing the compromise petition is also not stated.

In the given facts and circumstances of the case, so far as the impugned order is concerned, this Court finds that there is no plausible ground to interfere with the same. Nothing is in dispute, neither the relationship nor the income of the petitioner. The petitioner has not paid a single penny to his wife since 2011 as it appears that the maintenance case was filed in the year 2011 which remained pending for seven years. After the judgment of the learned court below another more than four years have gone, therefore the petitioner has successfully avoided to pay maintenance to his wife for almost a decade that too when he is employed in Indian Army.

This Court, therefore, while dismissing the revision application, directs the petitioner to pay the entire outstanding amount of maintenance within a period of twelve months in equal monthly installments from his resources in hand. He will continue to pay the current maintenance from the month of September, 2022.



A copy of this order be communicated to the employer/drawing disbursing authority of the petitioner to ensure that the maintenance amount is duly deducted from his salary and the same be remitted to the account of the opposite party no.2.

It will be open for the opposite party no.2 to bring this order to the notice of the employer/drawing disbursing authority of the petitioner.

Before this Court parts with the record, this Court makes it clear that the parties are at their will to enter into a settlement and for that purpose they can request the learned Principal Judge, Family Court to take appropriate steps. Pendency of any negotiation for settlement shall not however be taken as a ground for delaying the payment of maintenance as directed above.

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'.

