

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1242 of 2018

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

Sanjay Kumar S/o Ram Barat Prajapati R/o Village-Rasalpur,P.S. Barun
Distt.-Aurangabad Bihar

... .. Petitioner

Versus

1. The State of Bihar
2. Smt. Punam Kumari @ Punam Devi W/o Sanjay Kumar D/o Raghu Prasad
R/o Village - Katari, P.S. Nimchak Bathani, Distt.- Gaya, at present R/o
Gewal Bigha, Police line, Mali Bagicha near Shakti Niwas, P.S. Rampur,
Distt.-Gaya, Bihar.

... .. Opposite Parties.

Appearance :

For the Petitioner/s : Mr.Lal Bahadur Singh, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 15-09-2022 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

Petitioner, in the present case, is aggrieved by and
dissatisfied with the order dated 19.03.2018 passed by the
learned A.C.J.M. - II, Civil Court, Aurangabad in M.H.L.
01/17/C.I.S.- 01/2017.

It appears from the impugned order that the
learned court below has by way of an interim order directed
the petitioner to allow his wife to live in the matrimonial
house and in case she is not allowed to stay there and/or she
does not want to stay in her Sasural, the petitioner shall
return her stridhan and pay a sum of Rs. 3000/- per month



in her account. In case she stays with the petitioner, the petitioner shall pay 500/- in her account by way of interim maintenance.

Learned counsel for the petitioner submits that the learned court below has awarded interim maintenance ignoring the fact that in Matrimonial Case No. 134/2013 a decree of divorce has been granted in favour of the petitioner and the marriage between the petitioner and the opposite party has been dissolved. Learned counsel, however, admits that while granting decree of divorce the learned Principal Judge, Family Court, Aurangabad had not awarded any permanent alimony. It is also admitted that the decree of divorce is an *ex-parte* decree against which the opposite party had filed a Miscellaneous Application seeking setting-aside of the *ex-parte* decree. The result of the said application is not known to learned counsel for the petitioner.

In the given facts and circumstances of the case, first of all this Court finds that this Revision Application is not maintainable against an interim order allowing interim maintenance. Reference in this regard may be made to the



Hon'ble Division Bench Judgment of this Court in the case of **Md. Akil Ahmad v. The State of Bihar & Ors.** reported in **2016 (4) PLJR 968.**

This Revision Application is dismissed.

In case, the petitioner has not complied with the direction of the learned court below and has not paid any maintenance to his wife (O.P. No.2), learned Principal Judge, Family Court, Aurangabad shall proceed to execute the impugned order as expeditiously as possible and recover the arrears of maintenance with additional sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) which this Court imposes as cost upon the petitioner and the same shall be realized with the arrears of maintenance. In the meantime, he will continue to comply with the interim order. The learned court below is expected to dispose of the main matter within a period of four (4) months from the date of receipt/communication of this order.

Learned counsel for the petitioner admits in course of hearing that this petitioner is working in a private company and at the relevant time his salary was Rs. 10,000/- per month. It is also admitted that he had not



produced any *prima-facie* material in the learned court below to show that his wife has got any independent source of income. These facts are being taken note of only without making any observations as those are the subject matter of consideration by the learned court below.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

