

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1214 of 2016

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

Md. Bashir Alam Son of Md. Ismile Resident of Village - Hasanpur Bhadwas,
P.S. - Mahua, District - Vaishali.

... .. Petitioner

Versus

1. The State Of Bihar
2. Raunak Praveen Wife of Md. Basir Alam, Daughter of Late Md. Alkama
3. Aafrin Khatoon Daughter of Md. Bashir Alam under the guardianship of her mother, Raunak Praveen
4. Sabrin Khatoon Daughter of Md. Bashir Alam under the guardianship of her mother, Raunak Praveen All residents of Village - Hasanpur Bhadwas, P.S. - Mahua, District - Vaishali.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Satyavrat Verma, Advocate
For the Respondent/s : Mr. Ramchandra Singh,APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 22-11-2022 Heard learned counsel for the petitioner and Mr. Ramchandra Singh, learned APP for the State.

Petitioner in the present case is aggrieved by and dissatisfied with the judgment/ order dated 19.08.2016 passed by the learned Principle Judge, Family Court, Vaishali in the Maintenance Case no. 67 of 2013. By the impugned order, the learned court has been pleased to award a maintenance of Rs. 2,500/- to the applicant Nos. 2 and 3 who are the minor children of the petitioner.

The solitary ground raised before this Court on behalf



of the petitioner is that the learned court below could not consider that after impounding of his passport, the petitioner had no employment and had no source of income.

This Court has gone through the discussions available in the impugned order. While the case of the applicant-wife is that due to non-fulfillment of the demand of dowry, she along with her two minor daughters was thrown out of the matrimonial house, the opposite party- petitioner has while denying the allegations made against him took a stand that he has no sufficient income to maintain his wife and minor children. He also took a plea that the applicant- wife is herself engaged as a contract teacher.

Learned Principle Judge, having noticed that the marriage and birth of the two children out of the wedlock are some admitted facts, considered the evidences available on the record, took note of the fact that the applicant no. 1 was employed as a contract teacher so she was not entitled for any maintenance but at the same time found the two minor children entitled for maintenance and awarded Rs. 2,500/- to each of them.

From the submissions made on behalf of the petitioner, this Court finds that there is no dispute that the



petitioner is an able-bodied person and is capable to earn. Admittedly, he was earlier employed at Qatar. He has not disclosed his income and other properties in his hand in the learned court below.

In such circumstance, where the husband/father as the case may be is an able-bodied person, the observations of the Hon'ble Supreme Court in the case of **Anju Garg and Another Vs. Deepak Kumar Garg** reported in **2022 SCC Online SC 1314** particularly those in Paragraph '10' of the judgment would get attracted. Those observations are being quoted hereunder for a ready reference:-

"10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In **Chaturbhuji v. Sita Bai reported in (2008) 2 SCC 316**, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife,



by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.”

This Court is, therefore, of the considered opinion that the amount of maintenance awarded to the minor children need no interference. This Court further finds that the maintenance case was filed in the year 2013 and in the name of fighting the litigation, the petitioner has not paid any maintenance to the minor children. In such circumstance, this Court directs the learned Principle Judge, Family Court, Vaishali at Hajipur to enforce the impugned judgment, recover the entire outstanding maintenance together with a cost of Rs. 25,000/- which will be payable by the petitioner to the minor children. Let the entire amount be recovered as expeditiously as possible.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

tusharika/-

U			
---	--	--	--

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'.

