

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.955 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Gaya

Shiv Shankar Chaudhary Son of Late Bishun Chaudhary R/o
Panchukachharisurhitola, Hisua, Dist.- Nawada

... .. Petitioner

Versus

1. The State of Bihar
2. Kiran Devi Wife of Shiv Shankar Chaudhary R/o Panchhukachhari, P.S.-
Hisua, Dist.- Nawada
3. Ashish Kumar Son of Shiv Shankar Chaudhary R/o Panchhukachhari, P.S.-
Hisua, Dist.- Nawada
4. Jyoti Kumari Daughter of Shiv Shankar Chaudhary R/o Panchhukachhari,
P.S.- Hisua, Dist.- Nawada
5. Manish Kumar Son of Shiv Shankar Chaudhary R/o Panchhukachhari, P.S.-
Hisua, Dist.- Nawada
6. Satish Kmar Son of Shiv Shankar Chaudhary R/o Panchhukachhari, P.S.-
Hisua, Dist.- Nawada

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.
For the State : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 10-10-2022 No one appears for the petitioner.

In fairness to the learned counsel for the petitioner, this Court must mention that the matter was mentioned at the outset when the Court started its sitting after luncheon interval. Prayer was to adjourn the case. This Court convinced learned counsel for the petitioner that after the matter would be called out, his prayer would be considered and if he requires the brief of the case to go through, the same will be provided to him. Unfortunately, thereafter learned counsel for the petitioner has



chosen not to appear in this case.

On going through the records, this Court finds that in this case, the application under Section 125 Cr.P.C. was filed as back as in the year 2010. Earlier, the learned court below had passed an interim order directing the petitioner to pay an interim maintenance amount of Rs. 600/- per month to the applicant but the said amount was not paid as a result thereof the opposite party-husband was debarred from contesting the case. The learned court below has recorded in paragraph '6' of the impugned order that a party who is disobeying the order of the court cannot be allowed to be heard considering his conduct. Still, the learned court below has considered the evidences available on the record. The court found that the plea taken before the learned court below on behalf of the husband was that the applicant no. 1 is a teacher in a private school and she earns from teaching job but no evidence could be adduced on this point. On the other hand, the elder brother of the husband admitted in his evidence that the husband of the applicant no. 1 is a driver.

After a detail discussion on the materials available on the record, the learned court below allowed the application directing the petitioner to pay Rs. 600/- per month to applicant



no. 1 as her maintenance from 03.09.2010 till the month of June, 2018. From June 2018, he has been ordered to pay Rs. 1,000/- per month as maintenance allowance to applicant no. 1. The petitioner has been further directed to pay Rs. 200/- per month as maintenance amount to the other applicants from 03.09.2010 till the month of June, 2018. From July 2018, he has been directed to pay a sum of Rs. 500/- per month to the applicant nos. 3, 5 and 6 whereas Rs. 200/- per month has been allowed to applicant nos. 2 and 4 from 03.09.2010 till the date of attaining their majority.

This Court finds that in this case, the husband-petitioner being an able-bodied person has miserably failed to discharge his obligation towards his wife and minor children. The amount of maintenance is a meager sum of Rs. 600/- and Rs. 1,000/- only and even that amount has not been paid for over twelve years.

In this Court, attempt was made to get adjourn the matter but when the Court did not agree readily to adjourn the case, learned counsel for the petitioner left the Court itself and then this Court has dealt with this matter going through the materials available on the record. The conduct of the petitioner in keeping his wife and children engaged in litigation for over



twelve years must be deprecated. Recently, in the case of **Anju Garg and Another Vs. Deepak Kumar Garg** reported in **2022 SCC Online SC 1314**, the Hon'ble Supreme Court has observed in paragraph '10' as under:-

“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 **Chaturbhuj 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.”

In the totality of the facts and circumstances and the materials on the record, this Court finds no reason to interfere



with the impugned judgment.

After noticing the conduct of the petitioner in depriving his wife and his minor children from getting their maintenance that too the meager amount, this Court is of the considered opinion that the entire outstanding arrears be realized with a cost of Rs. 25,000/- (Rupees Twenty Five Thousand only).

Let the learned Principal Judge, Family Court, Gaya execute the impugned judgment with the cost amount as expeditiously as possible.

(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'.

